

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Thirtieth day of July Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE V. PARTHIBAN

WMP Nos.20542, 18243 AND 15516 of 2019

IN WP.15623/2019

1 S.PONNUSWAMY, [PETITIONERS IN WMP No.20542 OF 2019]
S/O. SUBBAIAH, IN WP.15623/2019
JOINT COMMISSIONER OF LABOUR -
II, DMS COMPLEX, CHENNAI-6

2 T.TAMILARASI
W/O. R.SIVARAMAN, JOINT COMMISSIONER OF
LABOUR (MW), DMS COMPLEX, CHENNAI-6

3 M.SHANTHI,
W/O. U.LAKSHMIKANTHAN, JOINT COMMISSIONER OF
LABOUR (SPL), O/O. COMMISSIONER OF LABOUR,
DMS COMPLEX, CHENNAI-6.

1 N.K.DHANABLAN [PETITIONERS IN WMP No.18243 OF 2019]
LABOUR WELFARE OFFICER, CHENNAI IN WP.15623/2019

2 G.RAMU
ASSISTANT COMMISSIONER OF LABOUR (E)
VILLUPURAM, NO 35, PADMINI NAGAR VILLIANUR
PUDUCHERRY- 607002

3 U. RAMARAJ
ASSISTANT COMMISSIONER OF LABOUR (E),
KARUR, NO 23/6, MGR NAGAR
PALANI- 624601

4 K. PALANI
ASSISTANT COMMISSIONER OF LABOUR (E)- II
CHENNAI NO 13C/1, NEW STREET COMMIGSPET
TIRPAPAPPULIYUR, CUDDALORE-607002

5 J. KALIDOSS
ASSISTANT COMMISSIONER OF LABOUR (E) MADURAI
595, GNANAGIRI ROAD SIVAKASI

6 A. VALARMATHI
ASSISTANT COMMISSIONER LABOUR(E),
THIRUVALLUR LALBAHADHUR SHASTRI STREET,
PERIYAKUPPAM, TIRUVALLUR

7 S. VETRISELVI
ASSISTANT COMMISSIONER OF LABOUR (C) -I
CHENNAI, NO. 1, WJW BLOCK LLOYDS COLONY,
ROYAPETTAH CHENNAI-14

8 M. MANIGEMALAI
ASSISTANT COMMISSIONER OF LABOUR (E) - III,
CHENNAI, NO. 360, 12TH CROSS STREET T. P.
CHATHIRAM, KILPAUK GARDEN CHENNAI-10

9 L.KANNAGI,
ASSISTANT COMMISSIONER OF LABOUR (C) - II,
KURALAGAM, CHENNAI 1

10 D.GNANAVEL,
ASSISTANT COMMISSIONER OF LABOUR (E),
KRISHNAGIRI, 25, OLD MOSQUE STREET, CHEYYAR

11 E.VENKATESAN,
ASSISTANT COMMISSIONER OF LABOUR (C),
CUDDALORE, NO. 99/ 13A, NORTH MADA STREET,
THIRUVOTTIYUR, CHENNAI - 600019

12 R.RAJKUMAR,
ASSISTANT COMMISSIONER OF LABOUR (SSS),
THENI, NEW NO. 45, OLD NO. 25, LAKE VIEW
GARDEN 2ND STREET, K.K.NAGAR, MADURAI - 20

13 S.PREMA,
ASSISTANT COMMISSIONER OF LABOUR (C),
TIRUPPUR, NO. R.28-B, KOVAIPUDUR, COIMBATORE - 43

14 A.SANBEGARAMAN,
ASSISTANT COMMISSIONER OF LABOUR (C)-I,
VELLORE, NO. 12, ROYAL KUTTAI STREET,
KANCHEEPURAM - 631502

15 S.MYVILISELVI,
ASSISTANT COMMISSIONER OF LABOUR (E),
SIVAGANGAI, NO. 270, II FLOOR, LIC COLONY, K.
K.NAGAR, MADURAI

16 O.JANAKIRAM,
ASSISTANT COMMISSIONER OF LABOUR (C)-III,
CHENNAI, 10 SECOND LANE, ANJANEYA NAGR,
ROYAPURAM, CHENNAI - 13

17 K.CHENTHILKUMARAN,
INSPECTOR OF LABOUR - TIRUVARUR, NO. 7/ 10
VEERAREDDYPALAYAM, USSOOR POST, VELLORE

18 P.RAMAKRISHNAN,
ASSISTANT COMMISSIONER OF LABOUR (E),
THIRUNELVELI, NO. 86, VIJALAKSHMI STREET,
KAMARAJ NAGAR, PERUNGALATHUR, CHENNAI - 63

19 R.JAISANKAR,
ASSISTANT COMMISSIONER OF LABOUR (SSS),
VANIYAMBADI, NO. 14, THIRUMURUGAN NAGAR,
PANAPAKKAM POST, ARAKKONAM (TK), VELLORE - 631052

20 P.SHOBANA,
ASSISTANT COMMISSIONER OF LABOUR (SSS),
PONNERI

21 K.THIRUVALLUVAN,
ASSISTANT COMMISSIONER OF LABOUR (E),
VIRUDHUNGAR

1 B.KOTTEESWARI [PETITIONER IN WMP.NO.15516 OF 2019]
W/O.G.SIVAKUMAR B-2 AISHWARYA LAKSHMI IN WP.15623/2019
APARTMENT, M.G.ROAD
SALEM-16

Vs

1 B.KOTTEESWARI [RESPONDENTS IN WMP.NO.20542 OF 2019]
W/O. G.SIVAKUMAR, B-2, AISHWARYA LAKSHMI IN WP.15623/2019
APARTMENT, M.G. ROAD, SALEM-6.

2 STATE OF TAMIL NADU,
REP. BY ITTS SECRETARY, LABOUR AND
EMPLOYMENT DEPARTMENT, FORT ST. GEORGE,
CHENNAI-600009.

3 THE COMMISSIONER OF LABOUR
DMS COMPOUND, TEYNAMPET
CHENNAI-18

4 THE PRINCIPAL SECRETARY
PERSONNEL AND ADMINISTRATIVE REFORMS
DEPARTMENT, SECRETARIAT
CHENNAI-9

5 THE SECRETARY,
TAMIL NADU PUBLIC SERVICE COMMISSION,
CHENNAI-2

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LABOUR WELFARE OFFICER, CHENNAI

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VILLIANUR PUDUCHERRY- 607002

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PALANI- 624601

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(E), THIRUVALLUR LALBAHADHUR SHASTRI STREET,
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KURALAGAM, CHENNAI 1

15 S.RAJENDIRAN, (SINCE RETIRED),
P.NO. 16, 4/ 476 A, ARUN NAGAR,
NAGAMALAI, PUDHUKOTTAI, MADURAI - 625019

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ASSISTANT COMMISSIONER OF LABOUR (E),
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INSPECTOR OF LABOUR - TIRUVARUR, NO. 7/ 10
VEERAREDDYPALAYAM, USSOOR POST, VELLORE

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ASSISTANT COMMISSIONER OF LABOUR (E),
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KAMARAJ NAGAR, PERUNGALATHUR, CHENNAI - 63

25 D.LAKSHMINARAYANAN,
ASSISTANT COMMISSIONER OF LABOUR (E), (UNDER
SUSPENSION), 736, RAMAMOORTHY NAGR,
PUTHUMARIAMMANKOIL PO, SLAEM - 636003

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ASSISTANT COMMISSIONER OF LABOUR (E),
VIRUDHUNGAR

1 B.KOTTEESWARI [RESPONDENTS IN WMP.NO.18243 OF 2019]
W/O.G.SIVAKUMAR B-2 AISHWARYA LAKSHMI IN WP.15623/2019
APARTMENT, M.G.ROAD SALEM-16

2 THE STATE OF TAMIL NADU
REP. BY ITS SECRETARY, LABOUR AND EMPLOYMENT
DEPARTMENT, FORT ST. GEORGE, CHENNAI - 9

3 THE COMMISSIONER OF LABOUR
DMS COMPOUND, TEYNAMPET
CHENNAI-18

4 THE SECRETARY,
TAMIL NADU PUBLIC SERVICE COMMISSION,
CHENNAI-2

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DEPARTMENT, SECRETARIAT
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1 THE STATE OF TAMILNADU [RESPONDENTS IN WMP.NO.15516 OF 2019]
REP BY ITS SECRETARY, LABOUR AND EMPLOYMENT IN WP.15623/2019
DEPARTMENT, FORT.ST.GEORGE CHENNAI-9

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NO 23/6 MGR NAGAR, PALANI-624601

8 K.PALANI
ASST COMMISSIONER OF LABOUR
(E)- II CHENNAI, NO 13-C/1, NEW STREET COMMIGSPET,
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13 L.KANNAGI ASSISTANT COMMISSIONER,
OF LABOUR (C)- II KURALAGAM
CHENNAI-1

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POST NO 16, 4/476, A.ARUN NAGAR NAGAMALAI
PUDUKOTTAI MADURAI- 625019

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VIRUDHUNAGAR

28 S. PONNUSAMY,

29 T. TAMILARASI

30 M. SHANTHI.

R28 TO R30 ARE IMPEADED VIDE ORDER DT.03/07/2019, MADE IN
WMP.NO.18400 OF 2019 IN WP.NO.15623 OF 2019 BY VPNJ.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Modify the Interim Stay granted on 07.06.2019 in WMP No. 15516/2019 in WP No. 15623 of 2019 (IN WMP.NO.20542 OF 2019) Pending disposal of the above in WP.NO.15623 OF 2019.

(II) To Vacate the Interim Stay dated 07.06.2019 made in WMP No. 15516 OF 2019 in WP No. 15623 of 2019 (IN WMP.NO.18243 OF 2019) Pending disposal of the above in WP.NO.15623 OF 2019 AND;

(III) To stay the operation of the impugned order namely, the G.O.(MS) no 38 of labour and Employment (E1) department dated 9-4-2019, issued by the 1st Respondent IN WMP.NO.15516 OF 2019 Respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.SYED MUSTAFA R., Advocate in WMP.NO.20542 OF 2019 AND MR.VIJAY SHANKAR.V, ADVOCATE IN WMP.NO.18243 OF 2019 AND MR.G.MUTHARASU, ADVOCATE IN WMP.NO.15516 OF 2019 for the petitioner and Respondents in each the of the Petitioners and of MR.G. MUTHARASU FOR 1ST Respondents in WMP.NOS.20542, 18243 OF 2019 on behalf of the Respondents the court made the following order:-

The challenge in the writ petition is to the inter se seniority of the direct recruits/promotees in the cadre of Labour Officer/redesignated as Assistant Commissioner of Labour.

2.While the writ petition came up for admission, stay has been granted in respect of the seniority list comprising several names of officers, who are likely to be promoted to the next higher grades as Deputy Commissioner, Joint Commissioner, Additional Commissioner, etc.

3.When the writ petition is posted for hearing today, the learned counsel Mr.Syed Mustafa R, appearing for the petitioners in W.M.P.No.20542 of 2019, would submit that the interim stay granted by this Court would affect the rights of his clients, who are impleaded as party respondents, viz., respondents 28 to 30, in the writ petition, and hence, he seeks to modify the order of stay granted in W.P.No.15623 of 2019 and W.M.P.No.15516 of 2019.

4.According to the learned counsel for the petitioners in W.M.P.No.20542 of 2019, the three petitioners herein are 1999 appointees and the dispute is in regard to 2012 appointees and the outcome in the writ petition is not going to affect the rights of these petitioners, who are far seniors to the rival claimants, who approached this Court for settlement of their seniority. Therefore, according to him, in any case, the promotion of the petitioners herein will not come in the way of the dispute raised by the rival claimants and it will not affect them at all and because of the pendency of the litigation and the stay granted by this Court, their promotion to the next higher grade of Additional

Commissioner of Labour is put on hold by the administration. Therefore, the learned counsel for the petitioners in W.M.P.No.20542 of 2019 seeks proper modification of the order passed by this Court on 07.06.2019 in W.P.No.15623 of 2019 and W.M.P.No.15516 of 2019.

5.At this, the learned counsel appearing for the writ petitioner fairly submits that the petitioners represented by Mr.Syed Mustafa R, are unlikely to be affected by the final orders to be passed in the writ petition.

6.In view of the above, the interim order of stay already granted by this Court, dated 07.06.2019 in W.P.No.15623 of 2019 and W.M.P.No.15516 of 2019 shall not operate so far as the claims of the petitioners in W.M.P.No.20542 of 2019 and their promotion shall be operated to the post of Additional Commissioner of Labour, if they are otherwise suitable for such promotion.

7.It is made clear that the interim stay already granted by this Court on 07.06.2019 in W.P.No.15623 of 2019 and W.M.P.No.15516 of 2019 shall hold good in respect of the rival claimants are concerned, except the petitioners in W.M.P.No.20542 of 2019 and the same is extended till the next date of hearing.

Post the writ petition for final hearing on 13.08.2019 in the same position, along with connected W.P.Nos.29670 of 2015, 3171, 16924 and 14887 of 2019, 15973 of 2018 and 29670 of 2015, in view of the parties seeking urgent final orders of the Court.

-sd/-

30/07/2019

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY,
STATE OF TAMIL NADU,
LABOUR AND EMPLOYMENT DEPARTMENT, FORT ST. GEORGE,
CHENNAI-600009.

2 THE COMMISSIONER OF LABOUR
DMS COMPOUND, TEYNAMPET CHENNAI-18

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CHENNAI-2

5 THE PRINCIPAL SECRETARY
PERSONNEL AND ADMINISTRATIVE REFORMS
DEPARTMENT FORT ST. GEORGE, CHENNAI-600 009.

C.C. to M/S.SYED MUSTAFA R. Advocate sr.no.9583

The Government Advocate, High Court, Madras - 104.

Order

in
WMP Nos.20542, 18243 AND 15516 of 2019
IN WP.15623/2019

Date :30/07/2019

From 26.2.2001 the Registry is issuing certified
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VC (06/08/2019) IT



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