



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P(MD)Nos.11457 to 11470 of 2015

and

M.P (MD) Nos.1,1,1,1,1,1,1,1,1,1,1,1,1 & 2,2,2,2,2,2,2,2,2,2,2,2,2,2,2,2
of 2015

and

W.P(MD)No.7717 of 2015

W.P(MD)Nos.11457 to 11470 of 2015:

S. SHANMUGA KUMARI

... PETITIONER IN ALL THE PETITIONS

Vs

THE CHAIRMAN

V.O.CHIDAMBARANAR PORT TRUST, TUTICORIN.

THE SECRETARY

GENERAL ADMINISTRATION DEPARTMENT.,

V.O.CHIDAMBARANAR PORT TRUST,

TUTICORIN.

...1ST & 2ND RESPONDENTS/RESPONDENTS IN ALL
THE PETITIONS

R. ANTONY XAVIER ..3RD RESPONDENT IN WP(MD) No.11457/ 2015

S.SIVAGAMA SUNDARI ..3RD RESPONDENT IN WP(MD) No.11458/ 2015

G.MALAYAMMAL ..3RD RESPONDENT IN WP(MD) No.11459/ 2015

P.YESU SELVAN ..3RD RESPONDENT IN WP(MD) No.11460/ 2015

R.KANMANI ..3RD RESPONDENT IN WP(MD) No.11461/ 2015

M.MURUGAN ..3RD RESPONDENT IN WP(MD) No.11462/ 2015

<https://hcservices.scdpa.gov.in/hcspr/hcspr/> A. PUSHPA K. LALAN ..3RD RESPONDENT IN WP(MD) No.11463/ 2015



R.LISTON GOMEZ ..3RD RESPONDENT IN WP (MD) No.11464/ 2015
A.AUGUSTA ..3RD RESPONDENT IN WP (MD) No.11465/ 2015
S.UTHAYA SURIAN ..3RD RESPONDENT IN WP (MD) No.11466/ 2015
V.MAHARAJAH ..3RD RESPONDENT IN WP (MD) No.11467/ 2015
C.CHANDRA PAPPA ..3RD RESPONDENT IN WP (MD) No.11468/ 2015
R.MANO HAR ..3RD RESPONDENT IN WP (MD) No.11469/ 2015
M.MANO HARAN ..3RD RESPONDENT IN WP (MD) No.11470/ 2015

COMMON PRAYER W.P(MD)Nos.11457 to 11470 of 2015: Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order of promotion passed by the second respondent vide his proceedings in No.S.1/1/2014-E.II/D.Nos. 2052 to 2065 dated 20.06.2015 respectively and quash the same and consequently direct the second respondent to promote the petitioner to the post of Head Clerk in V.O.C.Chidambaranar Port Trust, Tuticorin.

For Petitioner : Mr.R.Anand

For R1 : Mr.B.Saravanan
for Mr.A.Arivuchandran

For R2 & R3 : No appearance
(IN ALL THE CASES)

WP (MD) No. 7717 OF 2015:

1. C.PETCHIRAJ,
2. S.SHANMUGAKUMARI,
3. C.SELVI,
4. KOILMANI,

... PETITIONERS

VS. -

1. THE CHAIRMAN,

V.O.CHIDAMBARANAR PORT TRUST, THOOTHUKUDI - 4

2. V.O.CHIDAMBARANAR PORT TRUST, ADMINISTRATION DEPARTMENT, REP BY ITS SECRETARY,

THOOTHUKUDI- 4

3. R. SELVAKUMAR

4. N. PREMA

5. S. SIVAKAMASUNDARI

6. P. SIVAKUMAR

7. A. SANKAR

8. P. ESAKKIAMMAL

9. K.T. RAJASREE

10. G. MALAIAMMAL

11. C. SELVARAJ

12. B. MARY JACQULIN

13. P. YESUSELVAM

14. R. KANMANI

15. E. GERALD SORIS

16. P. KARUPPASAMY

17. M. KANDASAMY

18. R. GENGAMMAL

19. S. PALANIKUMARASAMY

20. M. MURUGAN

21. A. AGUSTA

22. A. SOBANA

... RESPONDENTS

Prayer in WP(MD). 7717/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of certiorarified mandamus or anyother writ or order or direction in the nature of a writ calling for the records relating to the proceedings of the impugned seniority list circulated by letter No.S-6/4/2014-E.II/D.533 dated 18.02.2015 on the file of the 2nd respondent and quash the same and further directing the respondent port trust to refix the seniority of upper division clerks as per ratio 3:1 provided under the rules.

For Petitioner : Mr. G.Prabhu Rajadurai

For Respondent No.1 : Mr. B.Saravanan
For Mr. A.Arivu Chandran

For Respondent Nos. 11 and 16:

Mr.H.Mohamed Imran,
For M/s. Ajmal Associates

: None Appearance for



Respondent Nos. 2 to 10, 12
to 15 and 17 to 22.

WEB COPY

COMMON ORDER

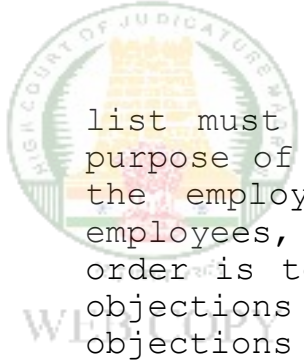
The draft seniority list published by the first respondent, the Chairman, V.O.Chidambaranar Port Trust, Thoothukudi in respect of the cadre of Upper Division Clerk, is under challenge in these writ petitions.

2. The draft seniority list published on various dates are under challenge in different writ petitions. However, the common grievances are that the draft seniority lists were prepared and thereafter the aggrieved persons including the writ petitioners had submitted their respective objections to the competent authority for the purpose of revision of their seniority at the time of publication of final seniority list in the cadre of Upper Division Clerk.

3. The grievances of the writ petitioners are that though the final seniority list was published during the year 2011, once again the Port Trust issued a draft seniority list in the same cadre of Upper Division Clerk during the year 2014 and thereafter in the year 2015. The very procedure adopted for preparation and publication of draft seniority list as well as the finalisation of final seniority list was not properly done by the Port Trust.

4. This Court is of the considered opinion that the fixation of seniority is a service condition of the employees in view of the fact that the seniority list is the source for grant of further promotion to the higher posts. In the event of errors in the seniority list, the same will affect the promotional opportunity of the employees, who all are allowed to get the promotion to the higher posts. Thus, the authorities competent must be sensitive and prepare the seniority lists with cautiousness and publish the same, enabling the employees to get their promotion in the higher posts in accordance with their entitlement as per the rules. The establishment of the Port Trust must be careful and cautious while preparing the seniority list in order to avoid discriminations and to avoid further complications and denial of promotion to the senior employees, who all are waiting for further promotions. All these aspects are to be taken into account while preparing the final seniority lists.

5. The procedure to be followed by any establishment as a matter of fact is that the draft/provisional seniority list must be published based on the service records of the employees and in accordance with rules in force. Considering the date of appointment or the promotion in the feeder category, the draft seniority lists are to be prepared by the establishment and such draft seniority



list must be published and communicated to all concerned for the purpose of receiving objections/appeals, if any grievances exists to the employees. On receipt of any objections/appeals from the employees, the same is to be considered carefully and a speaking order is to be passed enabling the management either to reject the objections or to allow the objections. In the event of allowing such objections submitted by the aggrieved employees, their seniority is to be reconsidered and accordingly they must be placed in the proper place in the final seniority list. This being the procedure to be followed for the purpose of publication of final seniority list, this court is unable to understand as to what is the reason for publication of repeated draft seniority list published by the respondent/Port Trust. Such a procedure is not contemplated in the service jurisprudence. In respect of one cadre, if a draft seniority list is published and after receiving the objections/appeals and passing final orders on the objections/appeals, final seniority list to be published. Once final seniority list is published, that is to be treated as a permanent document and permanent seniority with reference to the employees concerned. If at all any further appeal is allowed or the seniority is quashed, then alone further process of revision is to be undertaken and the names are to be suitably inserted and deleted as per the court order or as per the appellate authority's order, as the case may be. In other words, after publication of final seniority list if any appeal is allowed by the appellate authority, then the name of the employee concerned must be inserted in the proper place in the final seniority list. For the purpose neither a separate the seniority list nor a fresh draft list should be prepared. Therefore, the established administrative procedures for the purpose of publication of draft seniority list as well as the final seniority list must be undertaken properly and repeated publication of draft seniority list or final seniority list will create confusion amongst the employees and pave the way for unnecessary litigations.

6. In the present writ petitions, the multiplicity of proceedings arose on account of the fact that the Port Trust issued repeated draft seniority list and the final seniority lists published in the year 2011, again was reviewed by the authorities and another draft seniority list was issued. Such procedure is unknown to the service law. The seniority list is a final document as far as the particular cadre is concerned. The said seniority list should not be altered unless the appeal is allowed or any other further orders are passed by the appellate authority or by the court. This being the procedure to be adopted, this court is of the considered opinion that the draft seniority list or final seniority list, as the case may be, to be finally decided by the Port Trust and the final list, as the case may be and the said final seniority list pursuant to the order passed in the present writ petitions should be kept as a permanent document and any insertion and deletion and adding alone must be done with reference to the appellate orders and with reference to the order of this court if any passed.



7. In view of the facts and circumstances, this Court is inclined to pass the following orders:-

WEB COPY

i) All the writ petitioners and other employees who all are not parties to the litigations are also at liberty to submit their respective objections/appeals to the competent authority within a period of three weeks from the date of receipt of a copy of this order.

ii) On receipt of such objections/appeals from the respective employees, the respondents are directed to consider the same and take a decision and pass orders by assigning reasons for rejection or for allowing the objections, within a period of eight weeks from the date of receipt of the objections/appeals from the employees concerned.

iii) The respondents are directed to prepare the final seniority list strictly in accordance with rules and publish the same within eight weeks therefrom.

iv) In the event of any further grievance in respect of the final seniority list, the employees aggrieved are at liberty to approach the competent appellate authority for the purpose of redressal of their grievance. However, addition, deletion or insertions are to be done only in respect of those cases appeals are filed and the seniority list published must be kept as a permanent list as far as the cadre of Upper Division Clerk is concerned.

8. With these directions, all these writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

SD/-

ASSISTANT REGISTRAR (CO)

/TRUE COPY/

SUB ASSISTANT REGISTRAR (CS)

am

To

1. The Chairman,
V.O. Chidambaranar Port Trust, Tuticorin.

2. The Secretary,
General Administration Department,
<https://hcservices.ecourts.gov.in/hcservices/>
V.O. Chidambaranar Port Trust, Tuticorin.



1CC TO MR.G.PRABHU RAJADURAI, ADVOCATE SR 70740

1CC TO M/S. AJMAL ASSOCIATES, SR 71212

2CC TO MR.A. ARIVUCHANDRAN, ADVOCATE SR 70520 AND 70521

KK

12/07/2019

7P/7C

W.P(MD)Nos.11457 to 11470 of 2015 and W.P(MD)No.7717 of 2015
21.06.2019