



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.02.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **M.S.RAMESH**

W.P. (MD) Nos.5003 of 2018 & 1697 of 2019

and

W.M.P. (MD) Nos.17898 & 17899 of 2018 & 1450 & 5812 of 2019

In W.P. (MD) No.5003 of 2008

1.S.Premkumar

2.P.Arockia Britto

3.M.Kanagaraj

4.V.Marx

5.M.Muthu Vinayagam

6.A.Antony Samy

7.P.Murugesan

8.A.Chandrasekaran

9.R.Tennis Kumar

10.G.Katturaja

11.R.Venkatesan

12.K.Ponnuchamy

13.A.Arockaxavier

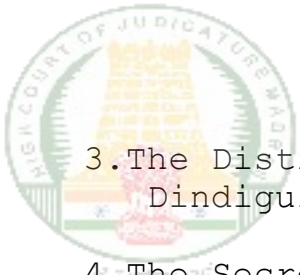
14.S.Selvakumar

... Petitioners

/vs./

1.The Commissioner of Revenue Administration
and Disaster Management,
Mitigation Department,
Chepauk,
Chennai.

2.The District Collector,
Dindigul District.



3.The District Revenue Officer,
Dindigul District.

4.The Secretary,
Tamilnadu Public Service Commission,
No.3, Frazer Bridge Road,
VOC Nagar,
Chennai -3.

5.M.Chitra

6.J.Moorthy

7.A.Sumathi

8.S.Jesuraj

9.S.Mayavan

10.C.Saravanan

11.T.K.Ramesh

12.A.Manoharan

13.U.Shenbagavalli

14.P.Manikandan

15.M.Mallika

16.A.Ilanchelvan

17.P.Chandramani

18.A.Kavitha

19.B.G.Chandrleka

20.R.Mohana Sundari

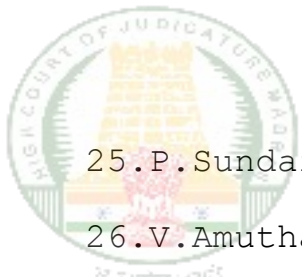
21.P.Parameshwari

22.M.Soundarapandian

23.N.Karuppasamy

24.G.Krishnaswami

<https://hservices.ecourt.gov.in/hservices/>



25.P.Sundarapandian

26.V.Amuthamozhi

27.M.Jeyakumar

28.M.Amutha

29.P.Muthupandi

30.K.Selvi

31.R.Venkaimarban

32.J.Ansari

33.C.Mythili

34.T.Muthamilselvan

35.N.Sankar

[R35 has been impleaded vide
order dated 25.04.2019
in WMP(MD).7702 of 2019]

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, declaring Section 1 (2) of Tamil Nadu Government Servant (Condition of Service) Act, 2016 as ultra vires and unconstitutional and consequently call for the records relating to the proceedings of the impugned order in Na.Ka.No.37470/2017/A2 dated 27.11.17 on the file of the 3rd respondent and quash the same and further directing the 3rd respondent to fix the seniority of Revenue Assistant in Dindigul District based on the rank list submitted by the 4th in the recruitment of CSSE-1-201 as per Section 35A of Tamilnadu State and Subordinate Service Rules.

For Petitioners : Mr.G.Prabhu Rajadurai

For R1 to R3 : Mr.M.Jeyakumar
Additional Government Pleader

For R4 : Mr.D.Sivaraman
Standing Counsel



For R5 to R9, R11, R12,
R14, R17, R19, R20,
16, 30, 31
R24, R28 & R33

: Mr.T.Lajapathi Roy

For R35

: Mr.Veerakathiravan for
M/S.Veera associates

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In W.P. (MD) No.1697 of 2019

P.Murugesan

... Petitioner

/vs./

1.The Commissioner of Revenue Administration
and Disaster Management,
Mitigation Department,
Chepauk,
Chennai.

2.The District Collector,
Dindigul District.

3.The District Revenue Officer,
Dindigul District.

4.M.Malliga

[R4 has been impleaded vide
order dated 11.03.2019 in WMP(MD).4182/2019]

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to dispose of the appeal dated 23.01.2018 filed by the petitioner against the order of the 3rd respondent dated 27.11.2017 and directing the respondents 2 & 3 from effecting any promotion to the Post of Deputy Tahsildar from the post of Revenue Assistant in Dindigul Revenue District.

For Petitioner

: Mr.G.Prabhu Rajadurai

For R1 to R3

: Mr.M.Jeyakumar

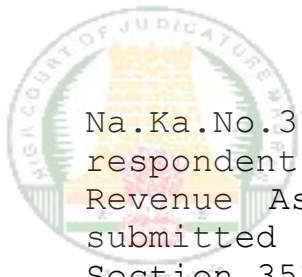
Additional Government Pleader

For R4

: Mr.M.Rajakartikeyan

COMMON ORDER

W.P. (MD) No.5003 of 2018 is filed to declare Section 1(2) of Tamil Nadu Government Servant (Condition of Service) Act, 2016 as unconstitutional, to quash the order passed in



Na.Ka.No.37470/2017/A2 dated 27.11.17 on the file of the 3rd respondent and to direct the 3rd respondent to fix the seniority of Revenue Assistant in Dindigul District based on the rank list submitted by the 4th in the recruitment of CSSE-1-201 as per Section 35A of Tamilnadu State and Subordinate Service Rules.

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2.W.P.(MD) No.1697 of 2019 is filed to direct the 1st respondent to dispose of the appeal dated 23.01.2018 filed by the petitioner and to direct the respondents 2 & 3 from effecting any promotion to the Post of Deputy Tahsildar from the post of Revenue Assistant in Dindigul District.

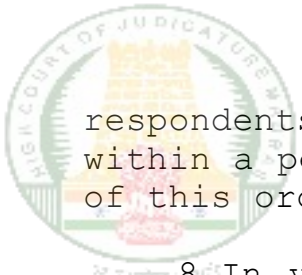
3.The petitioners in W.P.(MD) No.5003 of 2018, are aggrieved against the interse seniority list, since according to the petitioners, seniority has to be fixed as per the rank obtained in the list of 4th respondent. Prior to filing of the writ petition, one of the petitioners had also filed an appeal before the first respondent herein against the impugned list dated 27.11.2017 and pending the appeal, the present writ petition has been filed. I am of the view that when the issue itself is under consideration before the first respondent in the appeal, it would not be appropriate for this Court to invoke its extraordinary powers under Article 226 of Constitution of India for the purpose of parallely determining the issues.

4.Incidentally, one of the aggrieved employees has filed the writ petition in W.P.(MD) No.1697 of 2019, seeking for directing the first respondent to dispose of the appeal dated 23.01.2018 filed by the petitioner against the order of the third respondent dated 27.11.2017.

5.In view of the relief sought for in the writ petition in W.P.(MD) No.1697 of 2019, this Court is of the view that if a direction is given to the first respondent to dispose of the appeal dated 23.01.2018 on its own merits, the issue involved in W.P.(MD) No.5003 of 2018 would also be addressed and thereby, the grievance of the petitioner could be met.

6.The learned counsel appearing for the private respondents would submit that their objections should also be heard at the time of disposing of the appeal. Such a request seems to be reasonable.

7.In the light of the above observations and in consideration of the prayer sought for in W.P.(MD) No.1697 of 2019, there shall be a direction to the first respondent to dispose of the petitioners' appeal dated 23.01.2018 on its own merits and pass appropriate orders in accordance with law, after giving due opportunity of hearing to the petitioners as well as the private



respondents herein. Such an exercise shall be completed, at least within a period of three months from the date of receipt of a copy of this order.

8. In view of the above direction to consider the appeal, the prayer in W.P. (MD) No.5003 of 2018 does not require consideration.

9. These Writ Petitions stand disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

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Sub Assistant Registrar(CS)

mm

To

1. The Commissioner of Revenue Administration
and Disaster Management,
Mitigation Department,
Chepauk, Chennai.

2. The District Collector,
Dindigul District.

3. The District Revenue Officer,
Dindigul District.

+1 CC to M/s.SPL GP (SR-5576 & 5612)
+1 CC to M/s.VEERA ASSOCIATES, Advocate SR-5539[F]
+1 CC to M/s.D.SIVARAMAN, Advocate SR-5663[F]
+1 CC TO MR.RAJA KARTHIKEYAN, Advocate Sr. No.5567
+1 CC TO MR.G.PRABHU RAJADURAI, Advocate Sr. No. 5588

W.P. (MD) Nos.5003 of 2018 & 1697 of 2019
10.02.2020

VR(CO)

TR(11.03.2020) 6P 9C