



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2020

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P. (MD)No.5795 of 2015
and M.P. (MD)No.3 of 2015

- 1.A.Anbarasu
- 2.K.Soundara Raj
- 3.S.Gopi
- 4.S.Narayanan
- 5.G.Kannan
- 6.I.Chidambara Sakthi
- 7.M.Kanaga Sababathi
- 8.S.Seethalakshmi
- 9.M.Karthick
- 10.C.Gnanasoundari
- 11.R.Murugan
- 12.E.Madasamy
- 13.S.Sabari Karthick
- 14.A.Thangaraj
- 15.P.Subramanian
- 16.K.Kannan
- 17.K.Murugan
- 18.P.Murugan
- 19.M.Selvam
- 20.M.Seenivasan
- 21.A.Shanmugavel
- 22.P.Kandasamy
- 23.N.Mariya Rubi
- 24.P.Dhayanidhi
- 25.A.Esakkiammal
- 26.R.Lakshmi Priya
- 27.G.Karpaga Veerapandian
- 28.P.Muniappa
- 29.V.Murugan
- 30.K.Chinnamuthu
- 31.S.Andaal
- 32.C.Pounraj
- 33.P.Mahalakshmi
- 34.G.Krishnaveni
- 35.A.Kandasamy
- 36.S.Chandran
- 37.R.Basheer
- 38.M.Rathinapappu
- 39.K.Maheshwari
- 40.G.Sangeetha



41.S.Muthumani
42.M.Maharaja
43.M.Mohideen Fathimal
44.S.Subulakshmi
45.C.Silambarasan
46.R.Selvaprabu
47.C.Guruselvi
48.I.Mallika

... Petitioners

Vs.

1.State of Tamil Nadu,
Rep. by its Secretary,
Department of Rural Development and Panchayat Raj,
Fort St. George, Chennai-600 009.

2.The Director of Rural Development,
Panagal Building,
Saidapet, Chennai-19.

3.The District Collector,
Collectorate,
Tirunelveli, Tirunelveli District.

4.K.Perumal
5.P.Subbiah
6.M.Subramanian
7.R.Karuppasamy
8.V.Palanichamy
9.V.Thangamani
10.V.A.Mani
11.P.Thirumalai Andavar
12.J.Gomathi Thangam
13.V.K.Baskaran
14.M.Justin Rose Mary
15.A.Shakunthalai
16.E.H.Rathinakumar
17.P.Thangaraj
18.T.Viyagappan
19.M.Subramanian
20.R.Andal
21.S.Sankaran
22.A.Prema
23.A.Illangkannan
24.V.Seenivasaga Perumal
25.P.Balasubramanian
26.K.Marichamy
27.V.Padma
28.G.Mariammal
29.R.Jeyakumar
30.C.S. Senthil Kumar



31.A.Subramanian
32.E.Gobikrishnan
33.S.Lakshmi
34.E.Mariappan
35.P.K.Rajeshwari
36.K.Kamala
37.K.Parvathi
38.A.Sivagurunathan
39.P.Navaroch Subhanandhi
40.M.Mydeen Bava
41.A.Vinolia Manoranchitham
42.P.Iyyappa Kulasekara Alwar
43.G.Chellappa
44.P.Kaikondan
45.K.Anthony Raj
46.N.Sankaran
47.S.Kasali
48.M.Kathiravan

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Letter No.23555/Pa.A-4/2014-1, dated 10.12.2014 on the file of the first respondent and the consequential order in Na.Ka.No.53681/2014/Si.1, dated 24.12.2014 on the file of the second respondent and the consequential order with the seniority list in NaKa.No.Ngna2/29251/2014, dated 14.03.2015 on the file of the third respondent and quash the same as illegal and consequently to direct the respondents to retain the combined inter-se seniority in the post of Assistant as published in Na.Ka.No.Ngna2/29251/2014, dated 15.12.2014, on the file of the third respondent.

For Petitioners : M/s.Tamil Malar
for M/s.T.Lajapathi Roy

For Respondents : Mr.D.Muruganantham
Additional Government Pleader
(for R1 to 3)

No Appearance
(for R4, 9, 13, 19, 20, 28, 35, 37, 39,
40, 41 and 43)

Mr.M.Saravanakumar
(for 5 to 8, 10 to 12, 14 to 18, 21 to
27, 29 to 31, 42 and 44 to 48)

Mr.G.Thalaimutharasu
(for R32 to 34, 36 and 38)

**ORDER**

The relief sought for in the present writ petition is to quash the impugned orders passed by the respondents in proceedings dated 10.12.2014, 24.12.2014 and 14.03.2015. Further direction is sought for directing the respondents to retain the combined *inter se* seniority in the post of Assistant in proceedings, dated 15.12.2014.

2.The grievance of the writ petitioners is that the combined seniority list published in the post of Assistant in proceedings dated 15.12.2014 is to be retained. The learned counsel appearing for the writ petitioners brought to the notice of this Court that the very same issue with reference to the same Department, had already been adjudicated by the Hon'ble Division Bench of this Court in W.A.No.885 of 2018 and an order was passed on 25.10.2018. The relevant paragraphs are extracted hereunder:-

"3. The appellants herein are the direct recruits in the post of Assistants. The private respondent and others were promoted as Assistants from the feeder category. Initially, they have been promoted in the post of Assistants on a temporary basis. Thereafter, in the year 2014 - 16.06.2014, by the order of the District Collector, Tuticorin, temporary promotions of the promotees were regularized with retrospective effect from the date of their induction. In the meanwhile, the appellants were appointed directly as Assistants, which is obviously after the temporary promotion of the promotees. Under those circumstances, the present Writ Petition was filed claiming that the promotees, who are working in the cadre of Assistants now, will have to be placed below the appellants, who are the direct recruits.

4. The learned Single Judge was pleased to dismiss the Writ Petition by taking note of the proceedings dated 16.06.2014, by which, the promotees were regularized with retrospective effect.

5. The learned counsel appearing for the appellants would submit that there has to be a difference between a promotee and a direct recruit. Admittedly, the promotees were working on a temporary basis in the promoted post of Assistant. Before the order of regularization, the appellants have been appointed as Assistants. Therefore, the promotee Assistants will have to be placed below them. To support his contentions, the learned counsel has made reliance upon the following judgments:

"(i) Sanjay K.Sinha-II v. State of Bihar [2004(10)



(ii) *K.Madalaimuthu v. State of T.N.* [2006(6) SCC 558];
(iii) *S.Sumnyan v. Limi Niri* [2010(6) SCC 791]; and
(iv) *G.Panneerselvam and others v. The Principal Chief Conservator of Forests and Head of Forest Force, Chennai-600 015 and others* [W.A.Nos.811 of 2011, etc. batch, dated 17.04.2018].

6. The learned Additional Advocate General and the learned counsel appearing for the promotees would submit that the order dated 16.06.2014 has not been challenged. It is not an irregular promotion. Promotion has been made on a substantive vacancy. It is not as if there was a ratio that is being maintained,

7. As rightly submitted by the learned Additional Advocate General, the promotees have been regularized from the date of their initial entry. Though the order promoting them was a temporary one and did not give them any right, the subsequent order of regularization from that date onwards would certainly make them to count their seniority from the date of their entry in the promotional post. Suffice it to say that the said order has not been put into challenge. There is no law, which prohibits such an action, as the promotees were appointed indeed in substantive vacancies. In such view of the matter, the decisions relied upon by the learned counsel for the appellants are not applicable to the case on hand. We are also not dealing with 10(a)(i) appointments which are made de hors the rules. Here, we are dealing with the inter se seniority in a promoted post, insofar as the promotees are concerned and direct recruitment insofar as the appellants are concerned. Suffice it to say that at the time of entry into the promotional post by the promotees, the appellants were never in the picture. Therefore, we are of the considered view that the order of the learned Single Judge is not liable to be interfered with. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

3. In view of the direction issued by the Hon'ble Division Bench of this Court in the judgment cited supra, the case of the writ petitioners also to be considered in the light of the judgment and by considering their representation with reference to the issues raised. The petitioners are directed to submit their representation by stating all the details and produce all the relevant documents to the official respondents to enable them for considering the same in the light of the judgment cited supra.



4. With these observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

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/ /2020

Sub Assistant Registrar(CS)

gns

To

1. The Secretary,
State of Tamil Nadu,
Department of Rural Development and Panchayat Raj,
Fort St. George, Chennai-600 009.

2. The Director of Rural Development,
Panagal Building,
Saidapet, Chennai-19.

3. The District Collector,
Collectorate,
Tirunelveli, Tirunelveli District.

+1 CC to SGP (SR-19902[F] dated 13/10/2020)

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-19922[F] dated 13/10/2020)

+1 CC to M/s.M. SARAVANAKUMAR, Advocate (SR-19984[F] dated 14/10/2020)

W.P. (MD)No.5795 of 2015

12.10.2020

SS(CO)

NR (29/10/2020) 6P : 7C