



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 14.06.2021**

**CORAM:**

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

**W.P (MD)No.7807 of 2020**

N.Subramanian

... Petitioner

vs.

1.The State of Tamil Nadu  
Rep. By its Secretary,  
Health & Family Welfare,  
Secretariat. Fort St. George,  
Chennai.

2.The Director,  
Public Health & Preventive Medicine,  
Anna Salai, Teynampet,  
Chennai - 600 006.

3.The Secretary,  
Tamil Nadu Public Service Commission,  
TNPSC Road, V.O.C. Nagar,  
Park Town, Chennai - 600 003.

4.Tmt.A.Uma

5.Thiru K.Dharmaraj

6.Thiru L.N.Ramanathan

7.Thiru C.Raja

8.Tmt.K.Saraswathy

9.Thiru S.Ramamurthy

10.Thiru A.Abdul Azeem

11.Thiru M.Manoharadoss

12.Thiru E.Kailasapathi

13.Thiru S.Bagavathiappan

14.Tmt.R.Sujatha

15.Tmt.O.C.Prabhavathy

16.Tmt. V.P.Visalakshi

17.Thiru A.Khader

<https://hcservices.ecourts.gov.in/hcservices/>



18.Thiru S.Rajendren

19.Thiru M.Radhakrishnan

20.Tmt. S.Bhuvaneshwari

21.Thiru K.Bhaskaran

22.Tmt. R.Prema Sai

23.Thiru V.N.Janakiraman

24.Thiru D.Veerappan

25.Thiru G.Narayanan

26.Thiru K.Nachimuthu

27.Thiru S.Manisekaran

28.Thiru Thayudin Syed Shakith

29.Tmt.R.Sumathi

30.Thiru S.Ravichandran

31.Tmt.K.Savithiri

32.Thiru V.Shankar

33.Tmt.T.C.Shantha

34.Tmt. K.Sivakamasundari

35.Thiru S.Pandiyan

36.Thiru G.Giridharan

37.Tmt.N.Devi

38.Tmt.R.Girija Devi

39.Tmt. C.Nimmi

40.Thiru K.Kumar

41.Tmt. V.Geetha

42.Tmt. Nasreen Fathima



43.Tmt. G.Latha

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to place the petitioner over and above Tmt.A.Uma at S.No.389 in the '2010-Seniority list for Assistants' and notionally promote him as Assistant with effect from 16.12.2002 FN and consequently place him over and above Tmt. V.Gunasekari - S.No.96 in the '2010-Seniority list of Superintendents' and notionally promote him as Superintendent with effect from 02.09.2004 FN and further consequently place him over and above Tmt.Y.V.Vimala at S.No.4 in the '2010-Seniority list for Administrative Officers' and notionally promote him as Administrative Officer with effect from 01.08.2006 FN with all attendant / incidental monetary and other service benefits before further proceeding with the 2<sup>nd</sup> respondent present proceedings in R.No.10232/E1/S2/2020-1, dated 07.02.2020 which concerns with the Panel Preparation for the post of Administrative Officers in Tamil Nadu General Service for the panel year 2020-21.

For Petitioner : Mr.M.R.Sreenivasan

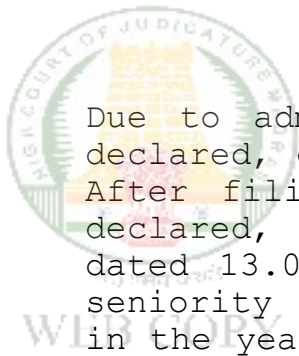
For Respondents : Mr.P.Subbaraj,  
Government Advocate for R1

Mr.M.Gnanagurunathan for R9

**ORDER**

This Writ Petition is filed seeking for a Writ of Mandamus, directing the respondents 1 and 2 to place the petitioner over and above Tmt.A.Uma at S.No.389 in the '2010-Seniority list for Assistants' and notionally promote him as Assistant with effect from 16.12.2002 FN and consequently place him over and above Tmt. V.Gunasekari - S.No.96 in the '2010-Seniority list of Superintendents' and notionally promote him as Superintendent with effect from 02.09.2004 FN and further consequently place him over and above Tmt.Y.V.Vimala at S.No.4 in the '2010-Seniority list for Administrative Officers' and notionally promote him as Administrative Officer with effect from 01.08.2006 FN with all attendant / incidental monetary and other service benefits before further proceeding with the 2<sup>nd</sup> respondent present proceedings in R.No.10232/E1/S2/2020-1, dated 07.02.2020 which concerns with the Panel Preparation for the post of Administrative Officers in Tamil Nadu General Service for the panel year 2020-21.

2. According to the petitioner, he was appointed as Junior Assistant on 09.03.1999, on compassionate ground. Even before completion of probation, he has passed three Departmental Exams during May 1999 itself, which are mandatory for basic promotion.



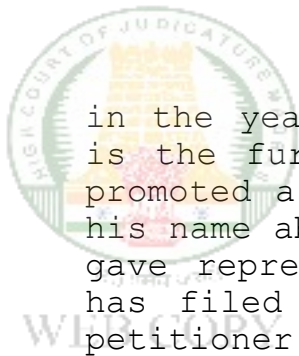
Due to administrative reason, the petitioner's probation was not declared, even though he has completed his probation on 08.03.2001. After filing W.P.No.9655 of 2009, the petitioner's probation was declared, by G.O.(D)No.817, Health & Family Welfare Department, dated 13.08.2010. The crucial date for preparation of panel for seniority list is 15<sup>th</sup> March. He has become eligible for promotion in the year 2001-2002 itself. But, he was promoted as Assistant in the year 2010 and as Superintendent in the year 2017 on 07.09.2017, but without fixing any proper seniority. According to the petitioner, many persons, who have not passed Departmental Test or passed the Departmental test belatedly, were promoted in the year 2001-2002 to 2009-2010. The petitioner ought to have been promoted as Administrative Officer in the year 2006 itself. The petitioner gave representation dated 01.06.2020 to place the him over and above respondents 4 to 43. The respondents 1 and 2 have not passed any order on the representation of the petitioner. The second respondent by proceedings dated 07.02.2020, prepared a panel for the post of Administrative Officer. The same is illegal and improper. Hence, the petitioner has come out with the present Writ Petition.

3. Respondents 1 and 2 filed counter affidavit. Mr.P.Subbaraj, learned Government Advocate referred to various avernments in the counter affidavit, various Government Orders and orders passed by this Court and prayed for dismissal of this Writ Petition.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 and 2, learned counsel appearing for 9<sup>th</sup> respondent and perused the materials available on record.

5. From the above rival submissions and materials on record, it is seen that the petitioner was appointed as Junior Assistant on 09.03.1999, on compassionate ground. According to the petitioner, he passed all the three Departmental Tests in May 1999 itself, even before his completion of probation period. The petitioner was sent for training at Bhavanisagar, belatedly due to administrative reasons. The petitioner filed W.P.No.9655 of 2009 and this Court allowed the said writ petition on 22.02.2013. While the said Writ Petition was pending, the respondents declared the petitioner's probation by G.O.(D).No.817, Health and Family Welfare Department, dated 13.08.2010, and included his name in the panel for promotion to the post of Assistant for the year 2009-2010. He was promoted as Assistant on 30.09.2010. Subsequently, the petitioner was promoted as Superintendent on 07.09.2017. According to the petitioner, some of the seniors in the post of Junior Assistants, who have not passed mandatory Departmental Tests or passed the tests subsequent to the petitioner passing test, have placed above the petitioner in the seniority list.

6. According to the petitioner, he ought to have been placed above the fourth respondent herein in the post of Assistant in the year 2006 itself and ought to have been promoted as Superintendent



in the year 2004, placing the petitioner above one Gunasekari. It is the further case of the petitioner that he ought to have been promoted as Administrative Officer in the year 2006 itself, placing his name above one Y.V.Vimala. On these contentions, the petitioner gave representation on 01.06.2020, to the respondents 1 and 2 and has filed the present Writ Petition. In the Writ Petition, the petitioner is seeking to refix the seniority from the year 2002 as Assistant, from the year 2004 as Superintendent and from the year 2006 as Administrative Officer. It is pertinent to note that the petitioner's probation was not declared, even after he completed two years from the date of his appointment. In the year 2009, when the petitioner filed W.P.No.9655 of 2009, he did not seek his seniority from 2001 and promotion as Assistant in the year 2002. In the Writ Petition viz., W.P.No.9655 of 2009, the petitioner sought for inclusion of his name in the panel for promotion to the post of Assistant for the year 2009-2010. This Court, by an order dated 22.02.2013, allowed the Writ Petition. While the Writ Petition was pending, the first the respondent by G.O.(D).No.817, Health and Family Welfare Department, dated 13.08.2010, relaxed the rules in favour of the petitioner and declared the petitioner's probation as completed. The petitioner was promoted as Assistant with effect from 12.06.2009, on par with his junior Mr.L.Subbaiah, by the second respondent on 27.09.2010.

7. From the above materials, it is seen that the petitioner did not seek his promotion as Assistant from the year 2002 and even in the Writ Petition No.9655 of 2009, filed by the petitioner in the year 2009, he sought only to include his name in the panel for the year 2009-10.

8. Similarly, the petitioner has not sought to place him above the 4<sup>th</sup> respondent in the seniority list of Assistant and did not seek promotion as Superintendent in the year 2004 itself, by placing him above one Gunasekari and promoted him as Administrative Officer in 2006. Only in the year 2020, the petitioner gave representation, seeking the above reliefs. If really, the petitioner is entitled for the reliefs sought for in the representation and in the present Writ Petition, he ought to have initiated proceedings to get the said relief at the earliest or at least in the year 2009, when he filed W.P.No.9655 of 2009. The petitioner is seeking to refix the seniority from the year 2002 as Assistant. Hence, the petitioner is not entitled to the relief sought for in the present Writ Petition.

9. Further, the contention of the petitioner that his seniors in the post of Junior Assistants, who have not passed departmental test or passed the tests subsequent to the petitioner passing test is concerned, in the counter affidavit, the respondents 1 and 2 have stated that whether passing additional two tests viz., Tamil Nadu Public Health Code and Tamil Nadu Medical Code, is mandatory or not was clarified only in the year 2007, when the case of one



the post of Assistant. Till that time, Department was under the impression that G.O.(Ms).No.1447, Health and Family Welfare Department, dated 01.08.1981, mandates the above two tests kept in abeyance and are not in force. The respondents 1 and 2 further stated in the counter affidavit that no panel was prepared from 2006-2007, 2007-2008 and 2008-2009. When the panel was prepared in the year 2009-2010, the Junior Assistants, who have passed Departmental tests, were included and the seniority was fixed as per seniority in the post of Junior Assistant. The petitioner, at that time, has not challenged the said seniority list, but has filed W.P.No.9655 of 2009, for inclusion of his name in the seniority list 2009-2010, after ten years. Therefore, the petitioner is not entitled to seek re-fixation of seniority from 2002.

10. For the above reasons, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

**Note :**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

vsm

To

- 1.The Secretary,  
State of Tamil Nadu  
Health & Family Welfare,  
Secretariat. Fort St. George,  
Chennai.
- 2.The Director,  
Public Health & Preventive Medicine,  
Anna Salai, Teynampet,  
Chennai - 600 006.
- 3.The Secretary,  
Tamil Nadu Public Service Commission,  
TNPSC Road, V.O.C. Nagar,  
Park Town, Chennai - 600 003.



+1 CC to M/s.M.R.SREENIVASAN, Advocate ( SR-19261[F] dated 14/06/2021 )

+1 CC to M/s.SPL GP ( SR-19341[F] dated 15/06/2021 )

+1 CC to M/s.M.GANAGURUNATHAN, Advocate ( SR-19319[F] dated 15/06/2021 )

**W.P (MD) No. 7807 of 2020  
14.06.2021**

GS (24.06.2021) 7P 7C