



W.P.No.25396, 25397 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE N. MALA

W.P.No.25396, 25397 of 2005

S.Masanadurai

... Petitioner in both writ
petitions

Vs.

1. The Commissioner and Director,
Survey and Land Records,
Chennai-5.
2. Regional Deputy Director,
Survey and Land Records,
Coimbatore-18.
3. The Assistant Director of Survey
and Land Records, Coimbatore-18.
4. M.Selvaraj, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.
5. M.Balakrishnan, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.



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6. K.A.Rajendran, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.
7. R.Selvaraj, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.
8. S.Shanmugasundaram, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.
9. G.Ganesan, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.
10. N.Sundararajan, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.
11. S.Ganesan, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.
12. P.Manian, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.
13. C.Balasubramanian, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.
14. P.Ponaiappan, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.



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15. P.Arumugam, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.

16. R.Karuppiyah, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.

17. N.C.Mariappan, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.

18. P.Ranjan, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.

19. K.Ramachandran, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.

20. R.Chellan, Surveyor,
O/o The Assistant Director of Survey
and Land Records, Coimbatore-18.

21. The Registrar,
Tamilnadu Administrative Tribunal,
High Court Building, Chennai-104.

... Respondents in
W.P.No.25396/2005

1. The Commissioner and Director,
Survey and Land Records,
Chepauk, Chennai-5.

2. Regional Deputy Director,
Survey and Land Records,
Coimbatore-18.



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3. The Assistant Director of Survey
and Land Records, Coimbatore-18.

4. C.Balasubramanian, Surveyor,
O/o The Inspector of Survey,
Town Survey Unit II, N.G.R. Street,
Peelamedu, Coimbatore-4.

5. P.Manian, Surveyor,
O/o The Inspector of Survey,
Town Survey Unit II, N.G.R. Street,
Peelamedu, Coimbatore-4.

6. R.Selvaraj, Surveyor,
O/o The Inspector of Survey,
Town Survey Unit II, N.G.R. Street,
Peelamedu, Coimbatore-4.

7. G.Ganesan, Surveyor,
O/o The Inspector of Survey,
Town Survey Unit II, N.G.R. Street,
Peelamedu, Coimbatore-4.

8. P.Panaiyappan, Surveyor,
O/o The Inspector of Survey,
Town Survey Unit II, N.G.R. Street,
Peelamedu, Coimbatore-4.

9. Ranjan, Surveyor,
O/o The Inspector of Survey,
Town Survey Unit II, N.G.R. Street,
Peelamedu, Coimbatore-4.

10. N.Devarajan, Surveyor,
O/o The Special Tahsildar,
Natham Settlement Office,
Coimbatore-North, Coimbatore.



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11. K.A.Rajendran, Surveyor,
O/o The Special Tahsildar,
Natham Settlement Office,
Coimbatore-North, Coimbatore.
12. S. Ganesan, Surveyor,
O/o The Inspector of Survey,
Town Survey Unit II, N.G.R. Street,
Peelamedu, Coimbatore-4.
13. S.Shanmugasundaram, Surveyor,
O/o The Inspector of Survey,
Town Survey, Pollachi,
Coimbatore District.
14. N.Sundararajan, Surveyor,
O/o The Inspector of Survey,
Town Survey Unit II, N.G.R. Street,
Peelamedu, Coimbatore-4.
15. The Registrar,
Tamilnadu Administrative Tribunal,
High Court Building, Chennai-104.

... Respondents in

W.P.No.25397/2005

Prayer in W.P.25396 of 2005: Writ petition filed under Section 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the records on the file of the 21st respondent in connection with the order passed in O.A.No.387/2003 dated 11.02.2004 and quash the same.



W.P.No.25396, 25397 of 2005

Prayer in W.P.25397 of 2005: Writ petition filed under Section 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the records on the file of the 15th respondent in connection with the order passed in O.A.No.5951/97 dated 11.02.2004 and quash the same.

In both writ petitions

For petitioner : Mr.Paridhi Arasu
for Mr.R.Karthikeyan
For respondents : Mr.A.Selvendran for R1 and R3
Special Government Pleader
Mr.B.Divakaran for R6, 8, 9, 11 to 14
No appearance.

COMMON ORDER

(Order of this Court was made by D.KRISHNAKUMAR, J.)

The writ petitions have been filed seeking to issue a Writ of Certiorari, quashing the impugned order passed by the Tribunal in O.A.No.387/2003 and O.A.No.5981 of 1997, fixing the seniority of the respondents 4 to 14, over and above the petitioner.



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2. The facts and circumstances of the case and the issues involved in the writ petitions are one and the same. Hence, this Bench passes the common order.

3. The petitioner was appointed as Surveyor cum Draughts man in Re-Survey Unit, Dharapuram on 10.05.1984 on consolidated pay. Subsequently, he was transferred to Sivaganga from 01.01.1985 and then to Mettupalayam in Coimbatore District from 01.04.1986. The petitioner expressed his willingness to be absorbed in Coimbatore District, agreeing to be kept at bottom of Seniority and accordingly, he was absorbed vide order dated 26.05.1988. In such circumstances, on account of closure of Scheme, 181 persons were transferred from Pudukottai District to various Districts, amongst them, 23 persons were absorbed in Coimbatore District on their willingness to forgo their District Seniority, vide proceedings dated 26.12.1989. Accordingly, the petitioner's seniority has assigned as Sl.No.205 and the seniority of the above 23 persons has assigned as Sl.No.210 to 232 and following the assignment of seniority, the petitioner and the above 23 persons were brought into time scale of pay by an order dated 03.09.1990.



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4.The respondents 4 to 20 in W.P.25396/2005 and respondents 4 to 14 in W.P.25397/2005 were also transferred from Pudukkottai District to Coimbatore District had given their willingness to be absorbed in Coimbatore District only on 31.07.1995 and their seniority was maintained in Pudukkottai District till 1995, whereas, the petitioner was absorbed in Coimbatore District from 26.07.1988 and brought into time scale of pay on 03.09.1990. But, purporting to follow the direction of the Tamil Nadu Administrative Tribunal by order in Rc.A2/15255/95 dated 31.08.1995, the Assistant Director of Survey and Land Records, Coimbatore, passed orders fixing the seniority of surveyors transferred from Pudukkottai as 204-A to 204-K, placing them below Vatsala (204) and above me (205). Though the petitioner has given objection on 20.12.1995, later, it was replied on 10.10.1996 that, the request cannot be complied with. In the meantime, the petitioner preferred an appeal on 31.07.1996 before the Regional Deputy Director of Survey and Land Records, but there is no reply.



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5. Therefore, the petitioner filed O.A.No.5951/1997 before the Tamilnadu Administrative Tribunal and while it was pending, the third respondent/ Assistant Director, issued proceedings dated 18.09.2002, fixing the seniority of the petitioner below 17 persons, the respondents 4 to 20 in the original application. Therefore, challenging the above proceedings, the petitioner filed O.A.No.387/2003 before the Tribunal. The Tribunal had taken up both the O.A.5951/1997 and 387/2003 and had dismissed the same vide order dated 11.02.2004. Challenging the above order, both the writ petitions have been filed.

6. The respondents filed counter affidavit stating that the petitioner was appointed as Surveyor-Draftsman on consolidated pay on Erode District. Then, he was transferred to Coimbatore District in April 1986 and again he was transferred back to Erode in December 1987. When he was working in Erode District, he applied for transfer to Coimbatore District agreeing to the condition that he will take last rank in Coimbatore District. His request was conceded and he joined duty on 27.06.1988 in Coimbatore District. Further, some respondents, who also belong to Pudukottai District were transferred to Coimbatore



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District filed O.A.No.3899/1991 and as per the orders of the Tribunal in that original application, their seniority was fixed in Coimbatore District, with reference to their dates of joining in Coimbatore District. The direction of the Tribunal is that, the transfer from Pudukkottai District has to be on the basis that they take their places below those already working in the district, but if they had been transferred in 1988, prima facie, they should have the seniority from 1988 ahead of those who have been appointed later. As the petitioner, on his own request, joined duty in Coimbatore District only on 27.06.1988, he has to be placed below the respondents. In view of this, there is no need for taking into account the date of option of the respondents. Hence the petition is liable to be dismissed.

7. The learned counsel appearing for the petitioner submitted that the Tribunal has come to a wrong conclusion that the petitioner had been given postings only after 27.06.1988. But, the petitioner was originally transferred from Sivagangai District to Coimbatore District as early as on 01.04.1986 and therefore, the above said period shall be taken into account and his seniority shall be fixed over and above the



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respondents 4 to 14.
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8. The respondents clearly stated in the counter affidavit that the petitioner was transferred to Coimbatore District in April 1986 and again he was transferred back to Erode in December 1987 and thereafter, on his application for transfer, agreeing to the condition that he will take last rank in Coimbatore District, he was transferred to Coimbatore District and he joined duty on 27.06.1988. Therefore, on his own acceptance, the petitioner's seniority will be taken into account as junior most person as on 27.06.1988.

9. The another contention of the petitioner is that, the respondents have given their willingness to be absorbed in Coimbatore District only on 31.07.1995 and hence, their seniority shall be fixed below the petitioner. But, it is to be noted that, the aggrieved respondents have filed the above O.A.No.3899/1991 for fixing their seniority from the date of joining duty at Coimbatore. The Tribunal, vide order dated 08.02.1994 has held that, if the petitioners opt, they should be given seniority from the date of their appointment in the



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District, if they had been transferred in 1988. Pursuant to the order of the Tribunal dated 08.02.1994, the respondents concerned had given their option and the above order of the Tribunal was implemented by the third respondent, vide proceedings in Na.Ka.A1/8952/2002 dated 16.09.2002, fixing their seniority in appropriate places. Therefore, there is no need to taking into account the options of the respondents.

10. It is to be noted that the judgement passed in O.A.No.3899/1991 was challenged before the Hon'ble Supreme Court and the SLP was dismissed, further, the review was also dismissed. Therefore, the order passed in O.A.No.3899/1991 has become final. This fact is not denied by the petitioner. Further, it is to be noted that the petitioner was appointed in the year 1983-1984 as Surveyor cum Draughtsman, only on consolidated pay and as admitted by him, he was brought into time scale of pay, only in the year 1990. Therefore, the seniority and other things would not arise.

11. The Tribunal, after perusing all the relevant materials and also taking into account the facts and circumstances of the case, has



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rightly held that there is no question of the applicant maintaining a lien or seniority in Coimbatore District just because on a prior occasion in 1983, he was working in Coimbatore District. Since the petitioner was transferred from Coimbatore to Sivagangai in the year 1985 and then again to Coimbatore District in the year 1988, after the respondents 4 to 14, the seniority has been correctly fixed, only in accordance with the orders passed by the Tribunal in O.A.No.3899/1991. As such, we are of the considered view that, there is no error in the orders passed by the Tribunal in O.A.Nos.5951/1997 and 387/2003 dated 11.02.2004 and hence, the same does not warrant any interference by this Bench.

12. Accordingly, the writ petitions in W.P.No.25394, 25397 of 2005 stands dismissed. No costs.

(D.K.K., J.) (N.M., J.)

22.09.2022

Index:Yes/No
Internet:Yes/No
mst



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To
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1. The Commissioner and Director,
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Chennai-5.
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Survey and Land Records,
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**D. KRISHNAKUMAR, J.
and
N. MALA, J.**

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