IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28 / 04 / 2022

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

WP NO.17643 OF 2012
& MP NOS.2, 3 AND 6 OF 2012 & WMP NOS.7757/2016
34827/2018 & 3713, 3716 AND 3717 OF 2020

1 P.Anandhraj
2 P.Ponnaiah
3 F.Abdul Razick
4 M.Parameswaran
5 K.Rajamani
6 K.Megraj
7 G.Lakshmipathy
8 D.Magesh Babu
9 B.Sreedevi
10 V.Karthik
11 M.Vani Easwari
12 S.Sattanathan
13 L.Raja
14 A.R.Gladstone Pushparaj
15 M.Manohar Singh
16 M.Madhavi
17 R.Rajashree
18 R.V.Shajeevana
19 G.Saraswathi Ganesan
20 K.Ramamoorthy
21 S.Jayakumar
22 T.R.Vedhanayagam
23 Nirmala Ramanathan
24 G.Rajam
25 C.Sujatha
26 S.Namagiri
27 N.Arul Jothi Arasan
28 S.Ashok Kumar
29 P.Jayasudha
30 P.Chandra
31 A.Lalitha
32 K.Loganayagi
33 N.Kavithapriya
34 S.Annamalai Premkumar
35 N.Srinivasan
36 C.Malathi
37 C.K.Veeranan
38 S.Selvakumar

39	S.S.Thanapathi
40	K.Aarthy
41	P.Periyasamy
42	S.Uma Mageshwari
43	S.Eswaran
44	G.Muthumeenal
45	V.Mahendran
46	K.Varadharajan
47	S.Samuel Inbhadurai
48	R.Sankar
49	S.Deivanayaki
50	S.Devanathan
51	S.Suresh
52	S.Kathiresan
53	P.Kanchana
54	V.Srilekha
55	V.Jayakumar
56	S.Sundarrajan
57	T.Murugan
58	G.Radha
59	K.Sumathy
60	V.Pitchai
61	R.Komahan
62	K.Selvarasu
63	G.Kanagasubramanian
64	M.Balaganesh
65	M.Sivakumar
66	S.Vidhyasagar
67	J.Sampath
68	S.S.Kumar
69	P.Renugadevi
70	S.Kavitha
71	Michael Anthony Fernando
72	K.Ramesh Kumar
73	G.Saravanamurthy
74	K.Narasimhan
75	G.Malarvizhi
76	K.Kavitha
77	J.Rooben Sankar Raj
78	R.Ramya Devi
79	A.Srinivasan
80	M.Jayaraman
81	B.R.K.Ramesh
82	S.Vadivel
83	P.Babu
84	N.Saravanan
85	A.R.Sivaraman
86	S.J.Kohila
87	P.Thilagavathy
88	R.Sakthivel

89 K.Arunmani
90 P.Manthrachalam
91 V.R.Veerabathran
92 B.Mathumathi
93 R.Mani
94 K.Indhubala
95 G.Ramiah
96 M.Prabhakar
97 R.Rajasekar
98 M.Rajmohan ... Petitioners

Vs

1 The Government Of Tamil Nadu
Rep. By The Secretary Public Department
Secretariat
Chennai - 600 009.

2 The Secretary
Revenue Department
Secretariat
Chennai - 600 009.

3 Union Of India
Rep. By The Secretary
Ministry of Personnel
Public Grievance And Pensions
Department Of Personnel & Training
New Delhi.

4 The Secretary
Union Public Service Commission
Shajahan Road,
New Delhi.

5 The Secretary
Tamil Nadu Public Service Commission
No.1, Greams Road,
Chennai - 600 006.

6 K.S.Kandasamy
R6-Impleaded as per order dated 10.12.2012
in MP No.4/12 in WP No.17643/2012

7 M.Lakshmi
R7-Impleaded as per order dated 17.01.2013
in MP No.5/12 in WP No.17643/12
... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for all relevant records relating to the impugned proceeding for rejection in Letter No.397/E1/08-2 dated 19.08.2008 by the 1st respondent State Government in rejecting the petitioners' claim, to include the post of Joint Director and Additional Director of the Rural Development and Panchayat Raj Department, in the "State Civil Service" as per the Rule 2 (g)(ii) of the Indian Administrative Service (Recruitment) Rules 1954 and Regulation 2(1)(j)(ii) of the Indian Administrative Service (Appointment by Promotion) Regulations 1955 to confer Indian Administrative Service through promotion to the petitioners herein to quash the said rejection proceeding as arbitrary, improper, unjust, unconstitutional, as it discriminates in the conferment to IAS, and consequently direct the 1st and 2nd respondents to include the post of Assistant Director / Joint Director / Additional Director in the Rural Development and Panchayat Raj Department, in the explanation to Deputy Collectors in Rule 1, Category 2 of the Special Rules for the Tamil Nadu Civil Service in Section 5, Volume-II of the Madras Service Manual 1969 to be assigned the status of "State Civil Service" on the approval of the 3rd respondent, as per the above said Rule 1954 and Regulation 1955 read with Regulation 7 (4) of the Indian Administrative Service (Appointment by Promotion) Regulations 1955 and to promote the eligible petitioners as IAS Officers, as per Rule 4(1)(b) of the Indian Administrative Service (Recruitment) Rules, 1954, on par with the R.D.O. and D.R.O. of the Revenue Department.

For Petitioners	:	Mr.M.Ravi for Mr.G.Mutharasu
For Respondents 1 and 2	:	Mr.P.H.Arvind Pandian Additional Advocate General Assisted by Ms.R.Janaki Additional Government Pleader
For Respondent 4	:	Mr.K.Sridhar
For Respondent 6	:	Mr.V.Vijay Shankar
For Respondent 7	:	Mr.C.K.Chandrasekar

ORDER

Challenging the rejection of request to include posts of Joint Director and Additional Director of the Rural Development and Panchayat Raj Department, in the "State Civil Service" by the first respondent Government in Letter No.397/E1/08-2 dated 19.08.2008, the petitioners have preferred the above writ petition.

2.All these writ petitioners belong to Tamil Nadu Rural Development and Panchayat Raj Department. They were selected through Group-I examination conducted by the Tamil Nadu Public Service Commission. Since they are not included in the State Civil Service, they could not get into Indian Administrative Service. Aggrieved over the same, they made a request to the State Government for inclusion of the posts of the Joint Director and Additional Director and State Civil Service in "State Civil Service".

3.As per Indian Administrative Service (Recruitment) Rules, 1954, the persons appointed to the service are called Indian Administrative Service (IAS). The method of appointment is by direct recruitment, by competitive examination, by promotion of a substantive Member of a State Civil Service and by selection among persons, who are not Members of a State Civil Service. 66 2/3 % of the total cadre strength shall be by direct recruitment by a competitive examination conducted by the Union Public Service Commission. 28 1/3 % shall be by promotion from the State Civil Service. 5% shall be by selection from among the Members of other Services.

4.Rule 2(g) of the Indian Administrative Service (Recruitment) Rules, 1954, (Shortly "the Rules") defines the State Civil Service as under:

> "2(g) "State Civil Service" means:-
>
> (i) for the purpose of filling up the vacancies in the Indian Administrative Service Cadre for the Arunachal Pradesh, Goa, Mizoram, Union Territories under rule 9, any of the following Services, namely :-
>
> a. the Delhi and Andaman and Nicobar Islands Civil Service;
>
> b. the Goa Civil Service;

c. the Pondicherry Civil Service;

d. the Mizoram Civil Service

e. the Arunachal Pradesh Civil Service

(ii) in all other cases, any service or services approved for the purpose of these rules by the Central Government, in consultation with the State Government, a member of which normally holds charge of a sub-division of a district for purposes of revenue and general administration or posts of higher responsibility;

(h) "State Government concerned", in relation to a Joint Cadre, means the Joint Cadre Authority."

5.As per the above Rule, it is noted that the service or services of a Member, who holds charge of a sub-division of a District for the purposes of Revenue and General Administration or posts of higher responsibility, as approved by the Central Government in consultation with the State Government.

6.From the above, it can be deduced that an Officer of the State, who is in-charge of a sub-division of a District, for the purposes of Revenue and General Administration and also persons holding higher responsibility, can be included in the State Civil Service. Hence, any responsible Officer, being the Head of a sub-division of a District, in the fields of Revenue as well as General Administration is eligible to be included in the "State Civil Service". Apart from this, any Officer, who is holding the post of higher responsibility is also eligible to be included in the "State Civil Service".

7.In Regulation 2(j)(ii) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 also, the very same definition has been given with respect to "State Civil Service".

8.A reading of Special Rules framed for the Tamil Nadu Civil Service constitutes two categories, namely, District Revenue Officer (Category - I) and Deputy Collector (Category - II) as Members of the Tamil Nadu Civil Services.

9.As per the above rules, the Members of the Revenue Department alone is defined as Deputy Collector (Category-II).

10.It is imperative to note that Tamil Nadu Public Service Commission conducts direct recruitment to Group-I posts by competitive examination. The Group – I Service includes the posts in Cooperative Department, Commercial Tax Department, Registration Department, Employment and Training Department, Police Department etc. Normally, when a selection is made to Group – I Service, the person, who opts for Revenue Administration is appointed as Deputy Collector and the person who opts for Police Service is appointed as Deputy Superintendent of Police. The person, who opts for Commercial Tax Department is appointed as Assistant Commercial Tax Officer. Likewise, as per the option, the candidates are appointed to a particular service. It depends on their passion and interest to choose a particular Department. These candidates are otherwise eligible to choose any Department, which falls under Group–I Service. Secondly, in the entire method of selection, the highest meritorious candidates are appointed to the post of Deputy Collector and thereafter to other Departments. This is purely on the fortuitous circumstances depending on the number of vacancies available to the post of Deputy Collector. For example, in a common selection, if only one post of Deputy Collector alone is available, the topper of the selected list will be appointed to that post. However, while following rule of reservation, at times, the meritorious candidates may miss the chance due to application of roster on communal basis. Therefore, as stated earlier, it is purely fortuitous circumstances.

11.Yet another illustration can be given that in a selection for Group - I Service, if there is no post available for Deputy Collector, the candidates who got selected will be appointed to other Departments, falling under Group - I Service. In the next selection, if ten posts of Deputy Collector fall vacant, the candidates selected in the subsequent selection will be appointed to those posts.

12.From these illustrations, it can be inferred that the candidates appointed to other services falling under Group-I Service are not inferior to those persons, who are appointed to the post of Deputy Collectors. All the candidates are selected through the competitive examination for Group-I Service. Therefore, it shall be considered that all selected through the same competitive examination are equal having potential to hold the post of Deputy Collector.

13.It is also imperative to note that if a person is appointed to the post of Revenue Inspector by way of Group-II or

III direct recruitment, he has an avenue of promotion to the post of Tahsildar and thereafter to Deputy Collector. Though a person, who was selected for inferior service, he gets promotion to the post of Deputy Collector. But he cannot be considered superior or better qualified than the person, who was selected and appointed to Group-I Service in other Departments. If a person is appointed as a Revenue Inspector or some other Subordinate Service can be promoted as Deputy Collector to perform his duties, the candidate selected through Group-I Service and appointed to other Department is also capable to discharge the duties of a Deputy Collector. Thus, from the totality of the circumstances, it can be inferred is that there are posts falling under Group - I Service of various Department and the holders of those posts are equally qualified to discharge the functions of the Deputy Collector provided an opportunity is given to them.

14.During the British period, Indian Officers were appointed to General Administration, particularly, to collect revenue and to Police Department. The Officers who are appointed to Revenue Department managed the affairs of the General Administration Department like Panchayat and assisted through British Collectors. Other than the collection of revenue and maintaining law and order, the British did not have any major Departments under their control. The Deputy Collector is very powerful to maintain the Administration of a District. Therefore, the post of Deputy Collector was found only for revenue administration. After independence, the State and Central Governments, formed several Departments for administering the Country.

15.In fact, as contended by the learned counsel for the petitioners, the Rural Development and Panchayat Raj Department were Integral part of Revenue Administration. The Officers on each Department possess higher responsibility and hold State Service. But when it comes to State Civil Service, even though there are posts holding higher responsibilities, they were not included in the Tamil Nadu Civil Service.

16.For example, in Kerala, there is separate Kerala Administrative Service consisting of more than 18 Departments. The Kerala Government in G.O.(Ms) No.228/2014/GAD, General Administration (Strictly Confidential) Department, dated 16.08.2014, submitted a report of feasibility of creating Kerala Administrative Service so as to widening the State Civil Service Class-I Groups and improve the quality of Civil Service which is highly essential to raise the quality of governance and to hold young and energetic Officers to come into Administration. From that Government Order, it could be seen that the Kerala Administrative Service (KAS) was set up with 18 Departments and a move was taken to identify the other Gazetted Posts equivalent to the post of Deputy Collector and to absorb them into Kerala Administrative Service. By this, all highly responsible, potential and meritorious officers of all the Departments will get a chance to get into Indian Administrative Service.

17.The learned Additional Advocate General would submit that the Rule 5 in Special Rules for the Tamil Nadu Civil Service provides for only certain posts under the definition Deputy Collector. Without amending the rules and getting approval from the Central Government, it is not feasible to include the petitioners or the posts of Joint Director and Additional Director in the "State Civil Service". There is a provision for appointment of 5% of the Non-State Civil Service Officers.

18.Same is the contention of the contesting private respondents that without amending the State Civil Service Rules, the petitioners cannot seek for inclusion of particular posts and for considering them for promotion under 28 1/3% quota meant for the Revenue Department.

19.The learned counsel appearing for the Central Government would submit that unless the State Government recognize the inclusion of Officers of General Administration and the posts holding higher responsibility, there is no occasion for them to include any other posts other than the one mentioned in State Civil Service. If the State Government recognize such posts to be included in the Special Rules for the Tamil Nadu Civil Service, they can approve the same.

20.It is also brought to the attention of this Court that the State Government has ample powers to make amendments to the Special Rules for the Tamil Nadu Civil Service. Even in the past, amendments were made by adding or deleting the posts within the definition of Deputy Collector. Government Orders in G.O.Ms.No.790, Revenue, 06.04.1979 and G.O.Ms.No.2805, Revenue, 20.12.1979 are examples for the same. Therefore, there is no hard and fast rule that the State Government shall follow the definition of Deputy Collector defined during the colonial era. Considering all round developments, particularly in the filed of Information and Technology and modern developments are implemented by various Departments like Rural Development, Education, implementation of various policies by the Government through various Departments, the posts which are holding higher responsibility shall be included in the State Civil Service. In other words, like Kerala Government, all the posts which fall under the State Services shall be considered and those who are involved in General Administration of the governance shall be included in the State Civil Service. By a narrow definition of including only the post of Deputy Collector will deprive the Government itself from having efficient, energetic and intelligent officers to its better governance.

21.As submitted by the learned Additional Advocate General, on the directions of this Court, there are several posts in Group-I Services and Non-Group I Services which are equivalent to Deputy Collector, not included within the definition of Deputy Collector. In fact, the officials of the Revenue Department holds the important posts of Assistant Director in Urban Land, Commercial Tax, Prohibition and Excise, Land Reforms, Civil Supplies Department, Tamil Nadu Marketing Corporation, Text Book and Education Services Corporation, Housing Development Corporation, Training Institutions, Institute of Management and various Corporations of the State, Government Hospitals, Medical Services Corporation, Road Sector, Tourism Development, Khadi and Village Industries, Cable TV, Electricity Board, Social Security Schemes, Water Supply Department, Electronic Corporation of Tamil Nadu and so many other posts. All these posts can be held by the Officers of the very same Department. But these posts are usurped by the Revenue Department under the garb of definition of Deputy Collector. It is high time that the Government of Tamil Nadu consider to include all these posts within the definition of Deputy Collector.

22.It is pathetic to note that the candidates who were appointed as Assistant Director under Group - I Service and holds highest post than the Deputy Collector, Revenue Divisional Officer and District Revenue Officer are treated as unequals. In fact, the Government has issued a Government Order, that the posts, which are holding the scale of Deputy Collector and above, will be treated on par. However, only because they were not included in the definition of Deputy Collector or District Revenue Officer in the Special Rules for the Tamil Nadu Civil Service, they were not considered for appointment as a Member of Indian Administrative Service. The persons holding higher responsibilities and drawing highest basic scale of pay and discharging very sensitive and important duties, should need to wait for two or three decades for becoming the Members of Indian Administrative Service, whereas, the person who is appointed into a lower rank of Revenue Department with lesser qualifications and lesser intelligence under fortuitous circumstances admitted to Indian Administrative Service within a short span of eight to ten years after having included into State Civil Service. In such circumstances, the Government shall consider forming of Tamil Nadu Administrative Service and bring in all efficient, smart and intelligent officers, into one fold and utilize them for the development of the State. The Government should take appropriate measures to set right the unequal treatment meted out by the efficient and intelligent Officers appointed to Group - I Services.

23.In such view of the matter, the rejection of the request of the petitioners only on the ground that those posts does not have exposure to Revenue Administration to get included in State Civil Services is irrational and sustainable.

24.Considering the totality of the circumstances, the following directions are issued to the State Government:-

(i) The Government shall consider forming of Tamil Nadu Administrative Service including all the Departments connected to the Revenue and General Administration, Implementation of State policies for development in General as has been done by the Kerala Government.

(ii) The Government shall consider taking steps to treat all the State Level Officers alike and provide equal opportunity to them by making appropriate recommendation to the Central Government to bring them into Administrative Service for effective Administration.

(iii) The State Government shall constitute a Committee for the purpose of identifying the posts, which can be brought under the definition of Deputy Collector as done in G.O.(4D) No.12, Public (Special-A) Department, dated 26.08.2005.

We hope that the process will be

initiated by the State Government within a period of six months.

25.With these directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

TK

To

1 The Secretary
Government of Tamil Nadu
Public Department
Secretariat, Chennai - 600 009.

2 The Secretary
Revenue Department
Secretariat
Chennai - 600 009.

3 The Secretary
Union of India
Ministry of Personnel
Public Grievance And Pensions
Department Of Personnel & Training
New Delhi.

4 The Secretary
Union Public Service Commission
Shajahan Road,
New Delhi.

5 The Secretary
Tamil Nadu Public Service Commission
No.1, Greams Road,
Chennai - 600 006.

+1cc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.29279

+1cc to Mr.K.Sridhar, Advocate, S.R.No.29351

+1cc to Mr.G.Mutharasu, Advocate, S.R.No.29476

+2ccs to M/s.K.Jayasudha Advocate, S.R.No.30128

+1cc to Mr.V.Vijay Shankar, Advocate, S.R.No.30218

WP NO.17643 OF 2012

NRL(CO)
SU(19/05/2022)