



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2022

CORAM:

THE HON'BLE MR JUSTICE D.KRISHNAKUMAR

W.P.NOS.4574, 4579, 4581, 4585,
4587 & 4588 OF 2022

W.P.NO.4574 OF 2022

P.Thiruvvarul

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
By its Chief Secretary,
Fort St. George,
Chennai - 600 009.

2. The Secretary to the Government,
Public Works Department,
Fort St. George,
Chennai - 600 009.

3. The Secretary to the Government,
Adi-Dravidar and Tribal Welfare Department.
Fort St. George,
Chennai - 600 009.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents herein to consider the representation dated 16.12.2021 submitted by the petitioner, and to initiate appropriate action.

W.P.NO.4579 OF 2022

B.Devan

... Petitioner

.Vs.



1. The Government of Tamil Nadu,
By its Chief Secretary,
Fort St. George,
Chennai - 600 009.

2. The Secretary to the Government,
Public Works Department,
Fort St. George,
Chennai - 600 009.

3. The Secretary to the Government,
Adi-Dravidar and Tribal Welfare Department.
Fort St. George,
Chennai - 600 009.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents herein to consider the representation dated 19.12.2021 submitted by the petitioner, and to initiate appropriate action.

W.P.NO.4581 OF 2022

S.Subbaraj

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
By its Chief Secretary,
Fort St. George,
Chennai - 600 009.

2. The Secretary to the Government,
Water Resources Department,
Fort St. George,
Chennai - 600 009.

3. The Secretary to the Government,
Adi-Dravidar and Tribal Welfare Department.
Fort St. George,
Chennai - 600 009.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents herein to consider the representation dated



10.12.2021 submitted by the petitioner, and to initiate appropriate action.

W.P.NO.4585 OF 2022

D.Diwakar

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
By its Chief Secretary,
Fort St. George,
Chennai - 600 009.
2. The Secretary to the Government,
Water Resources Department,
Fort St. George,
Chennai - 600 009.
3. The Secretary to the Government,
Adi-Dravidar and Tribal Welfare Department.
Fort St. George,
Chennai - 600 009.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents herein to consider the representation dated 08.12.2021 submitted by the petitioner, and to initiate appropriate action.

W.P.NO.4587 OF 2022

N.Suresh Kumar

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
By its Chief Secretary,
Fort St. George,
Chennai - 600 009.
2. The Secretary to the Government,
Public Works Department,
Fort St. George,
Chennai - 600 009.



3. The Secretary to the Government,
Adi-Dravidar and Tribal Welfare Department.
Fort St. George,
Chennai - 600 009.

... Respondents

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PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents herein to consider the representation dated 14.12.2021 submitted by the petitioner, and to initiate appropriate action.

W.P.NO.4588 OF 2022

S.Nethaji Ashok

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
By its Chief Secretary,
Fort St. George,
Chennai - 600 009.
2. The Secretary to the Government,
Water Resources Department,
Fort St. George,
Chennai - 600 009.
3. The Secretary to the Government,
Adi-Dravidar and Tribal Welfare Department.
Fort St. George,
Chennai - 600 009.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents herein to consider the representation dated 14.12.2021 submitted by the petitioner, and to initiate appropriate action.

For Petitioner : Mr.J.Thilagaraj
in all W.P's



For Respondents : Mr.P.Balathandayutham
in all W.P's Special Government Pleader
For RR1 to RR3

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COMMON ORDER

All the writ petitions have been filed for issuance of Mandamus directing the respondents to consider the petitioners' representation and to pass appropriate orders.

2. The issues involved in all the writ petitions are one and the same, and hence, this court passes the common order.

3. The case of the petitioners in brief is as follows:

The petitioners are working as Executive Engineer/ Assistant Executive Engineer in various Government Departments and they belonged to Scheduled Caste. In the year 2016, with a noble intention of widening the sweep of social justice, the Government of Tamilnadu enacted "Tamil Nadu Government Servants (Condition of Service) Act, 2016", which paved way for reservation in promotion with consequential seniority. Certain parties approached this court by filing writ petitions to declare the above Act, especially Sections 40(1), 1(2) and 70 of the Act as illegal. The above writ petitions were allowed by a Division Bench of this court, Vide order dated 15.11.2019, and Sections 40(1), 1(2) and 70 of the said Act were struck down. The Government of Tamilnadu approached the Supreme Court challenging the above judgment, and it was dismissed by the Supreme Court on 06.07.2020. As a result of dismissal, the Government had to prepare a revised seniority list of the employees, discarding reservation. By the formulation of a revised seniority list sans reservation, the petitioners have to lose their existing seniority.

3.1. In similar circumstances, the Act of Karnataka Government was challenged before the Supreme Court in a case in B.K.Pavitra Vs. Union of India (2017-4SCC-620) and the Supreme Court struck down the Act by holding that the exercise of determining i) Inadequacy, ii) Backwardness, and 3) Over-all efficiency are mandatory for providing consequential seniority and since no such exercise was not carried out, the Act was illegal. Subsequently, the Government of Karnataka formed a Committee headed by Mrs.Ratna Prabha, Additional Chief Secretary to Government of Karnataka, to evaluate and collect the data on inadequacy of representation of SC/STs in the higher level posts, their backwardness and the impact of the reservation in promotion over the general efficiency. Based on the report submitted by Ratna Prabha Committee, in the year 2017, the



Government of Karnataka passed the "Karnataka Extension of Consequential Seniority to Government Servants Bill, 2017". The President of India also accorded his assent to the said Bill. Though the Bill was challenged before the Supreme Court, it was upheld by the Bench of Supreme Court by delivering a landmark judgment in B.K.Pavitra Vs. Union of India reported in 2019-16-SCC-129.

3.2. Therefore, the petitioners gave their individual representations before the Government to make necessary proposal for forming a Committee, as was done by the Karnataka Government, under the Chairmanship of any capable retired; or in-service bureaucrat; or a retired Judicial officer to evaluate, determine and quantify the inadequacy of representation of SC/ST people in the higher categories and consequently to formulate and bring in pertinent legislations, based upon such report of Committee. But no action has been forthcoming in this regard. Hence this writ petition.

4. Already, writ petitions were filed and this court vide order dated 15.11.2019 has struck down the Sections 40(1), 1(2) and 70 of the Tamil Nadu Government Servants (Condition of Service), Act, 2016. The above order was also confirmed by the Hon'ble Supreme Court, in the Appeal filed by the Government. Now, the petitioner seeks for Constitution of a Committee to provide reservations for the SC/ST people in the higher level posts. These are all the decisions taken by the Government as policy decisions and this court cannot pass any specific direction to the Government to take appropriate decision on the petitioners' representation. Further, it is for the Government to take appropriate decision on the petitioners' representation. Therefore, this court is not inclined to entertain the writ petitions.

5. Accordingly, the writ petitions in W.P.Nos.4574, 4579, 4581, 4585, 4587 and 4588 of 2022 are dismissed. No costs. However, it is open to the petitioners to seek their remedy before the first respondent, in the manner known to law.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mst



To

1. The Chief Secretary,
Fort St. George,
Chennai - 600 009.
2. The Secretary,
Public Works Department,
Fort St. George,
Chennai - 600 009.
3. The Secretary,
Water Resources Department,
Fort St. George,
Chennai - 600 009.
4. The Secretary,
Adi-Dravidar and Tribal Welfare Department.
Fort St. George,
Chennai - 600 009.

+12ccs to Mr.J.Thilagaraj, Advocate, S.R.Nos.13879 to 13881
+1cc to the Government Pleader, S.R.No.14629

W.P.NOS.4574, 4579, 4581, 4585,
4587 & 4588 OF 2022

JP-II (CO)
PBS/19/05/2022