



W.M.P.Nos.36692 & 36687 of 2019
in
W.P.Nos.35788 & 35800 of 2019

S.M.SUBRAMANIAM, J.

The retrospective regularisation granted to the contesting respondents and the fixation of seniority by the Department is under challenge in these present writ petitions.

2. The learned Senior Counsel appearing on behalf of the writ petitioners mainly contended that the procedures adopted for fixation of seniority is in violation of the Rules in force and grant of retrospective regularisation to the set of employees caused infringement of the rights of the writ petitioners and they are deprived of their seniority based on their merit ranking in the Tamil Nadu Public Service Commission (TNPSC) selection.

3. The learned Additional Advocate General appearing on behalf of the State contended that 300 posts of Office Superintendent are falling vacant, thereby causing greater inconvenience to the public administration, since the Medical Department is implementing various health related



schemes introduced by the Government of Tamil Nadu. Further it 15
contended that seniority will be fixed as per the Rules in force and taking
note of the Service Records of the employees concerned.

4. No doubt, an aggrieved employee is entitled to challenge the seniority. However, issue relating to seniority is to be considered with reference to the Rules and various factors to be established by the persons, who all are challenging the list. In such circumstances, interim order if any granted by the High Court, if allowed to continue to an indefinite period it would cause inconvenience to the public administration and the present writ petitions are pending for the past about three years.

5. It is brought to the notice of this Court that 300 posts of Office Superintendent are vacant across the State of Tamil Nadu. The post of Office Superintendent is an important post in an establishment and therefore, keeping those posts further vacant for an indefinite period would cause greater inconvenience to the public administration. Thus, this Court is not inclined to continue the interim order of 'status quo' granted in the present writ petition.



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6. However, the respondents shall ensure that the seniority list has been prepared in accordance with the provisions of the Tamil Nadu Government Servants Act (Conditions of Service) Act, 2016 and accordingly, promote the eligible candidates in the available vacancies. However, all such promotions to be made are subject to the final orders to be passed in the present writ petition. Even in the order of promotion, the respondents shall indicate that the promotions are subject to the final orders to be passed in the present writ petition.

7. Prolongation of interim order and thereby stalling the public administration is certainly not desirable and therefore, the respondents are at liberty to follow the procedures and accordingly, fill up the vacant posts of Office Superintendent across the State of Tamil Nadu subject to the final orders in the present writ petition.

8. Accordingly, the interim order granted in W.M.P.Nos.36692 & 36687 of 2019 in W.P.Nos.35788 & 35800 of 2019 stands vacated and consequently, Miscellaneous Petitions in W.M.P.Nos.36692 & 36687 of 2019 are dismissed.



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9. Post the writ petitions for final hearing on 9th December, 2022.

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