



WEB COPY



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.A.Nos.1720 & 1786 of 2015 and 1271 & 1274 of 2016
and M.P.No.1/2015, CMP Nos.611, 16515 and 16547 of 2016

W.A.No.1720 of 2015

S.Chandrasekaran

... Appellant

-Vs-

- 1 K.Somasundaram
Assistant Engineer (AE) Project Officer
Drda Coimbatore
- 2 D.R.Ganesh Babu
Assistant Engineer (AE) O/O Asistant
Executive Engineer Cadp Srivaikundam
- 3 L.Muthumal Raj
Assistant Engineer (AE) O/O.Assistant
Executive Enginner Cadp Srivaikundam
- 4 R.Sundar Assistant Engineer
(AE) O/O.Assistat Executive Engineer CADP
Srivaikundam
- 5 The Secretary To Government
Agriculture Department Fort St.George
Chennai - 9
- 6 The Chief Engineer
Agricultural Engineering Department Nandanam
Chennai



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

- 7 The Secretary
Tamilnadu Public Service Commission Chennai
- 8 M.Adaikalasamy
Assistant Executive Engineer Mannargudi
- 9 R.Loganathan
Assistant Executive Engineer Manimuthar
Command Area Development Programme
Cheranmahadevi
- 10 K.Ramasamy
Assistant Executive Engineer Aranthangi
- 11 V.Karunanidhi
Assistant Executive Engineer Aranthangi
- 12 S.Periasamy
Assistant Executive Engineer Paramakudi
- 13 M.Khader Batcha Assistant
Executive Engineer Kumbakonam
- 14 V.Annadurai Assistant
Executive Engineer CADP Thanjavur
- 15 K.Radhakrishnan Assistant
Executive Engineer CADP Thiruvudaimaruthur
- 16 R.Sundararajan
Assistant Executive Engineer Cadp Seerkazhi
- 17 A.Abdul Azeez
Assistant Executive Engineer CADP
Thiruthuraipoondi
- 18 V.Natesan Assistant Executive
Engineer CADP III Aranthangi
- 19 U.Pandian Assistant Executive
Engineer Command Area Development Programme
Nangapattinam



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

20 S.Rajendran Assistant
Executive Engineer Command Area Development
Programme Nannilam

21 P.Subramani Assistant
Executive Engineer Gadana Ramanathi
Command Area Development Programme
Ambasamudram

22 Engineering Graduates
(Agricultural Engineering) Association Rep.
By Its General Secretary 487 Anna Salai
Nandanam Chennai - 35

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in
W.P.No.23996 of 2007 dated 05.03.2015.

For Appellant : Ms.G.Sumitra
For Respondents : Mr.K.V.Sajeev Kumar, Special Government Pleader
- for R5
Mr.R.Bharanidharan, Standing Counsel - for R7
Mr.N.Subramanian - for R2, R4, R6, R22
No appearance - R1, R3, R8 to R21

W.A.No.1786 of 2015

- 1 A.Adaikalasamy
Assistant Executive Engineer (AE) Mannargudi
- 2 R.Loganathan
Assistant Executive Engineer (AE) Thanjavur
- 3 K.Ramasamy
Assistant Executive Engineer (Ae) Manimuthar
Command Area Development Programme
Cheranmahadevi
- 4 V.Karunanidhi
Assistant Executive Engineer (AE) Aranthangi



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

- 5 S.Periasamy
Assistant Executive Engineer (AE) Paramakudi
- 6 M.Kader Batcha
Assistant Executive Engineer (AE) Kumbakonam.
- 7 V.Annadurai
Assistant Executive Engineer Command Area
Development Programme Thanjavur
- 8 K.Radhakrishnan
Assistant Executive Engineer (Ae) CADP
Thiruvidadaimaruthur
- 9 S.Soundararajan
Assistant Executive Engineer (AE), CADP
Seerkazhi
- 10 B.Abdul Azeez
Assistant Executive Engineer (AE) CADP
Thiruthuraipoondi
- 11 V.Natesan
Assistant Executive Engineer (AE) CADP III
Aranthangi
- 12 U.Pandian
Assistant Executive Engineer (AE) Command
Area Development Programme Nagapattinam
- 13 S.Rajendran
Assistant Executive Engineer (AE)
Tambaraparani Command Area Development
Programme Nannilam
- 14 P.Subramani
Assistant Executive Engineer AE Gadana
Ramanathi Command Area Development Programme
Ambasamudram

... Appellants

-Vs-



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

- 1 K.Somasundaram
Assistant Engineer (Ae) Project Officer
DRDA Coimbatore.
- 2 D.R.Ganesh Babu
Assistant Engineer (AE) O/O The Assistant
Executive Engineer/CADP Srivaikundam
- 3 L.Muthumal Raj
Assistant Engineer (AE) O/O The Assistant
Executive Engineer /CADP Srivaikundam
- 4 R.Sundar
Assistant Engineer (AE) O/O The Assistant
Executive Engineer Tirunelveli
- 5 The Secretary To Government
Agriculture Dept Fort St.George Chennai
- 6 The Chief Engineer
Agricultural Engineering Dept Nandanam
Chennai.
- 7 The Secretary
Tamil Nadu Public Service Commission Chennai
- 8 Mr.S.Chandrasekaran
Assistant Executive Engineer (AE) Coimbatore. Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in
W.P.No.23996 of 2007 dated 05.03.2015.

For Appellants	:	Mr.P.Rajendran
For Respondents	:	Mr.K.V.Sajeev Kumar, Special Government Pleader - for R5, Mr.R.Bharanidharan, Standing Counsel - for R7 Mr.N.Subramanian - for R2, R4 & R6 No appearance - R3 and R8, R1 - Died



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

W.A.No.1271 of 2016

Tamil Nadu Agricultural
Engineers Association 16 Perumal Street
Anna Salai Chennai 600 002 Rep. By Its
General Secretary A.Rajasekaran.

....

Appellant

Vs

- 1 Engineering Association Tamil Nadu Agricultural
Engineering Department Rep. By Its General
Secretary 487 Anna Salai Nandanam
Chennai-35.
- 2 The Government Of Tamil Nadu
Rep. By Its Secretary Agriculture
Department Chennai 9.
- 3 The Chief Engineer
Agricultural Engineering Department 487
Anna Salai Nandanam Chennai 600 035.

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in
W.P.No.17896 of 2016 dated 26.05.2016.

For Appellant : Mr.P.Rajendran
For Respondents : Mr.R.Kumaravel, Additional Government Pleader
- for R2,
Mr.N.Subramanian - for R1
No appearance - R3

W.A.No.1274 of 2016

V.Annadurai

...

Appellant

-Vs-

- 1 Engineering Graduates
Association Tamil Nadu Agricultural
Engineering Department Rep By Its General



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

Secretary 487 Anna Salai Nandanam
Chennai 35

- 2 The Government Of Tamil Nadu
Rep By Its Secretary Agriculture Department
Chennai 9
- 3 The Chief Engineer
Agricultural Engineering Department 487 Anna
Salai Nandanam Chennai 600 035

.... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in
W.P.No.17896 of 2016 dated 26.05.2016.

For Appellant : Mr.P.Rajendran
For Respondents : Mr.R.Kumaravel, Additional Government Pleader
- for R2,
Mr.N.Subramanian - for R1
No appearance - R3

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

Since the issue raised in these appeals are inter linked or arising out of two common orders, with the consent of the learned counsel for both sides, all these appeals are taken up together and are disposed of by this common order.

2. The controversy that arises in these appeals in nut shell would be that, in the Tamil Nadu Agricultural Engineering Services, the post of Assistant Engineer comes under the purview of Tamil Nadu Public Service Commission. However, between 1982 and 1984 March, some of the qualified candidates ie., B.E., Degree



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

qualified candidates were appointed as Assistant Engineers in that service by the Department concerned, under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules as temporary employees. In that capacity, those persons have been working. Subsequently, the employees who have been working in the post of Foreman, Draughtsman, Air Compressor etc., have been appointed as Junior Engineers by way of transfer between May 1984 and 1987. They were also working in that capacity.

3. Insofar as the Assistant Engineers who have been appointed on 10(a)(i) basis are concerned, since they made a request to the Government to regularize their services, of course after getting concurrence from the Tamil Nadu Public Service Commission (hereinafter referred to as 'TNPSC'), the Government, after taking the concurrence of the TNPSC, had come forward to regularize the services of those 10(a)(i) appointees / Assistant Engineers and thus issued a Government Order in G.O.Ms.No.444, Agriculture (A.E.III) Department dated 13.06.1990, where inter-alia the Government states the following:

" 5. The Government in acceptance of the recommendation of the Chief Engineer (Agri.Engg) and on the basis of the concurrence accorded by the Tamil Nadu Public Service Commission direct as follows:

- i. The services of the persons who were appointed temporarily as Assistant Engineer (Agri.Engg) on or before 31.12.1985*



WEB COPY



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

shall be regularized with retrospective effect from the date of their temporary appointment in the said post in accordance with their temporary appointment in the said post in accordance with their existing seniority. They may be assigned seniority below the candidate last selected / approved by the Tamil Nadu Public Service Commission for the post of Assistant Engineer (Agrl.Engg), the Chief Engineer (Agrl.Engg) shall regularize the services of the candidates. Subject to their being found to be physically fit for appointment to the post of Assistant Engineer (Agrl.Engg) and send a list of persons so appointed regularly to the Tamil Nadu Public Service Commission, with a copy to the Government. The Chief Engineer (Agrl.Engg) shall also send necessary proposals to the Government for relaxation of age rule in respect of the candidates so required.

- ii. The Tamil Nadu Public Service Commission is requested to conduct a special qualifying examination for the regularization of the Temporary Assistant Engineers (Agrl.Engg) who were appointed on or after 1.1.1986 and to send a list of qualified candidates straight to the Chief Engineer (Agrl.Engg) with a copy to the Government.*
- iii. The Chief Engineer (Agrl.Engg) should send the Estimate of vacancies for the post of Assistant Engineer (Agrl.Engg) every year to the Tamil Nadu Public Service Commission for conducting direct recruitment in time. In future, the post of Assistant Engineer (Agrl.Engg) should not be filled up other than through Tamil Nadu Public Service Commission."*

4. Therefore, by virtue of this G.O.Ms.No.444, all these Assistant Engineers



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

who are appointed on 10(a)(i) basis were regularized with retrospective effect from the date of their temporary appointment in the said post in accordance with their existing seniority. Subsequently, the Junior Engineers who had been appointed as Junior Engineers between 1984 and 1987 also had been regularized, for which the Government had issued G.O.Ms.No.19, Agriculture (AE-III) Department dated 13.01.1992, of course after taking concurrence from TNPSC. The relevant portion of the said G.O., reads thus,

" 4. The Government on the basis of the concurrence accorded by the Tamil Nadu Public Service Commission direct the services of the persons who are working temporarily as Junior Engineer (Agri.Engg) as mentioned in the Annexure to this order be regularized with retrospective effects from the date of their temporary appointment to the said post in accordance with their existing seniority. They may be assigned seniority below the candidate last selected/approved by the Tamil Nadu Public Service Commission for the post of Junior Engineer (Agri.Engg). The Chief Engineer, (Agri.Engg) shall regularise the services of the personnel subject to their being found physically fit for appointment to the post of Junior engineer (Agri.Engg) and send a list of persons so appointed regularly to the Tamil Nadu Public Service Commission with a copy of Government. The Chief Engineer (Agri.Engg) shall also send necessary proposals to the Government for relaxation of rules in respect of the candidates so required.

5. Orders regarding fixation of a ratio between direct recruitment and transfer promotion to the post of Junior Engineer (Agri.Engg) will be issued separately."



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

WEB COPY

5. Therefore, from the date they entered into service as Assistant Engineers, those Assistant Engineers' services were regularized and they have been working as such. Like that, from the date the other set of engineers who had become Junior Engineers also have been regularized with effect from the date they became Junior Engineers and accordingly in such capacity they have been working.

6. Subsequently, the Government also had come forward to decide that those who acquired B.E., or D.M.I.E., or A.M.I.E., which is the essential qualification to hold the post of Assistant Engineers and working as Junior Engineers can be re-designated as Assistant Engineers. Therefore, such a re-designation has been effected in respect of those Junior Engineers from the date of acquiring their respective qualification and in this regard, the relevant special rule has got amended by issuance of G.O.Ms.No.431, Agriculture (AE-3) Department dated 22.10.1996. Therefore, the Junior Engineers also have become Assistant Engineers from the date each one acquired such qualification as stated supra.

7. In this context, it is to be noted that, for the promotion to the post of Assistant Executive Engineer, the Assistant Engineer post being the feeder category, from those Assistant Engineers such a promotion has to be given for which when a panel was drawn, there had been some litigations as to who should take the seniority among these two categories.



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

WEB COPY

8. In this context, it is the contention of the Assistant Engineers who were appointed on 10 (a)(i) basis during 1982 and 1984 and subsequently regularized in their initial appointment that, their seniority shall be reckoned from the date of their initial appointment. However, the Government since decided to place them below the TNPSC selectees prior to such regularization, they can be placed below the TNPSC selectees and accordingly their seniority should be reckoned.

9. The very same stand has been taken by the Junior Engineers by citing the special rule under G.O.Ms.No.431, Agriculture (AE-III) Department dated 22.10.1996. However, the Government while drawing up a list for giving promotion, the Junior Engineers subsequently re-designated as Assistant Engineers also had been placed in the panel fit for promotion to be promoted as Assistant Executive Engineer by taking their seniority below the TNPSC selectees unmindful of the fact that the Assistant Engineers directly appointed under Rule 10(a)(i) whose seniority also has to be reckoned below the TNPSC selectees.

10. In this context, it is to be further noted that neither under G.O.Ms.No.444 dated 13.06.1990 nor under the special rule under G.O.Ms.No.431 dated 22.10.1996 inter se seniority between these two categories ie., directly appointed 10(a)(i) Assistant Engineers and re-designated Junior Engineers have been dealt with.



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

WEB COPY

11. Only in that circumstances, the Assistant Engineers directly appointed on 10(a)(i) basis had approached the writ Court and filed W.P.Nos.37019 of 2006 and 23996 of 2007, where the contesting respondents were the Junior Engineers re-designated as Assistant Engineers.

12. The prayer sought for in W.P.No.37019 of 2006 was with regard to G.O.Ms.No.431 dated 22.10.1996 and the consequential letter dated 18.08.2006, which according to them, was violative of the Tamil Nadu State and Subordinate Services Rules 1955. A consequential prayer was sought for to direct the official respondents to re-fix the seniority or to re-designate the Assistant Engineers from the date of regularization and not from the date of re-designation.

13. Insofar as W.P.No.23996 of 2007 is concerned, the prayer sought for was for a writ of Certiorarified Mandamus to call for the records of the proceedings dated 02.05.2007 issued by the Chief Engineer and also the consequential promotion orders issued to the contesting respondents 4 to 18 (Junior Engineers re-designated as Assistant Engineers) and to quash the same, and to consequently direct the Chief Engineer, Agricultural Engineering Department to re-fix the seniority in accordance with the Rules and to promote the writ petitioners based on such seniority list.



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

14. Those two writ petitions were heard and decided by the learned Judge in the impugned order, where W.P.No.23996 of 2007 was allowed as prayed for and W.P.No.37019 of 2006 was dismissed.

15. As against the order passed by the writ Court allowing the writ petition in W.P.No.23996 of 2007, the contesting respondents in those writ petitions who were re-designated Assistant Engineers had filed these two intra Court appeals ie., W.A.Nos.1720 and 1786 of 2015.

16. As a subsequent development, the writ petitioners in W.P.No.23996 of 2007 ie., Engineering Graduates Association, Agricultural Engineering Department filed W.P.No.17396 of 2016, where the prayer was for a writ of Mandamus directing the official respondents to implement the order of the Court dated 05.03.2015 made in W.P.No.23996 of 2007.

17. The said writ petition was allowed by another learned Judge by order dated 26.05.2016 giving direction to the official respondents therein to implement the order passed by the writ Court in W.P.No.23996 of 2007.

18. Felt aggrieved over the said order passed by the learned Judge, the other two writ appeals viz., W.A.Nos.1271 and 1274 of 2016 are filed. That is how these four intra court appeals have come before this Court.



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

WEB COPY

19. If the writ appeals in W.A.Nos.1720 and 1786 of 2015 arising out of the order dated 05.03.2015 made in W.P.Nos.37019 of 2006 and 23996 of 2007 is decided, that would cover the other two writ appeals also. Therefore, we take up only these two appeals and decide the same first.

20. The controversy that has arisen in these appeals, of course in the said writ petitions in W.P.Nos.37019 of 2006 and 23996 of 2007 is, how to fix the inter-se seniority between these two group of engineers. The first group is directly appointed Assistant Engineers under Rule 10(a)(i) between 1982 and 1984. The second group of engineers were originally appointed as Junior Engineers between 1984 and 1987 and subsequently re-designated as Assistant Engineers on their acquiring the necessary qualification.

21. The relevant portion of Government Orders ie., G.O.Ms.No.444 dated 13.06.1990 and G.O.Ms.No.431 dated 22.10.1996 have already been extracted herein above.

22. Insofar as G.O.Ms.No.444 is concerned, that only paved way for the first group of engineers to get regularization retrospectively with effect from the date of their initial appointment. The relevant portion of the Government Order in Para 5 has already been extracted herein above, where the Government had stated that,



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

services of the persons who were appointed temporarily as Assistant Engineers in the Agricultural Engineering Department on or before 31.12.1985 shall be regularized with retrospective effect from the date of their temporary appointment in the said post in accordance with their existing seniority. It is further stated that they may be assigned seniority below the candidate last selected / approved by the TNPSC for the post of Assistant Engineer in the Agricultural Engineering Department.

23.In G.O.Ms.No.431, the special rule has got amended which reads thus,

" (2) After Rule 6, the following Rule shall be inserted, namely,

"16-A. Seniority between the Assistant Engineer (Agricultural Engineering) directly appointed and those re-designated as Assistant Engineer (Agricultural Engineering).

The Junior Engineer (Agricultural Engineering) on re-designation as Assistant Engineer (Agricultural Engineering) in a calendar year shall be assigned rank below the last Assistant Engineer (Agricultural Engineering) in the list of candidates selected by the Tamil Nadu Public Service Commission in the category of Assistant Engineer (Agricultural Engineering) in that calendar year, the Junior Engineer (Agricultural Engineering) so re-designated as Assistant Engineer, shall be assigned rank below the last (Agricultural Engineering) in the list lastly communicated for this purpose. For this purpose, the date of communication of the list by the Commission shall be the criterion to decide the calendar year to which the list belongs."



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

WEB COPY

Provided that for determining the last Assistant Engineer (Agricultural Engineering) in a calendar year prior to 01.02.1981, the list of persons selected by Tamil Nadu Public Service Commission for the post of Agricultural Engineering Supervisor shall be taken into account."

24. Relying upon this portion of the Rule, the learned counsel for the appellants would contend that, since it is a statutory rule which says that the Junior Engineers on re-designation as Assistant Engineers in a calendar year shall be assigned rank below the last Assistant Engineers in the list of candidates selected by TNPSC in that calendar year, the seniority of the second group of engineers ie., re-designated Assistant Engineers shall be placed immediately below the the TNPSC selectees.

25. He would further submit that the Rule also states that, if no selection is made by the TNPSC in the category of Assistant Engineers in that calendar year, the Junior Engineers so re-designated shall be assigned rank below the last Assistant Engineer in the list lastly communicated for the purpose.

26. Relying upon this portion of the Rule, the learned counsel would contend that, after 1984 only one selection has been made. Therefore, no such communication had come. Hence, the last such communication from the TNPSC to send the list of selectees directly appointed as Assistant Engineers was alone to be taken up for the purpose of fixing the seniority for this second group of engineers.



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

Therefore, he claims that their seniority shall be fixed just below the last drawn TNPSC selectees, that means 1984.

26. However, it is to be noted that, insofar as the second group of engineers ie., re-designated Assistant Engineers are concerned, they became Junior Engineers only between 1984 and 1987. Well prior to them, the first group of engineers had already been appointed as Assistant Engineers on 10(a)(1) basis. These second group of engineers, they had become Junior Engineers between 1984 and 1987. Their services as Junior Engineers have been regularized only by issuance of G.O.Ms.No.19, Agricultural Engineering Department dated 13.01.1992. The relevant portion of the order ie., paragraphs 4 and 5 has already been extracted.

27. Of course, by virtue of G.O.Ms.No.19, from the date they became Junior Engineers on temporary basis, their services as Junior Engineers has been regularised.

28. Therefore, if at all they can be re-designated as Assistant Engineers, such an action can be taken only after issuance of G.O.Ms.No.19 in the year 1992. Therefore, by virtue of G.O.Ms.No.431 issued in the year 1996, they became Assistant Engineers re-designated on acquiring the qualification.



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

WEB COPY

29. However, insofar as the first group of engineers are concerned, in Para 5(1) of G.O.Ms.No.444 as referred to above, it has been made clear that they will be regularized with retrospective effect from the date of their temporary appointment in the post in accordance with their existing seniority. That means, their regularization dates back from their initial appointment, which had taken place between 1982 and 1984 March. So far as the assignment of seniority is concerned, G.O.Ms.No.444 further states that they may be assigned seniority below the candidate last selected / approved by the TNPSC in the post of Assistant Engineer.

30. Insofar as the last selected candidate by TNPSC is concerned, no doubt the last communication was sent in the year 1984, which is an admitted fact. However, the learned counsel for the appellants would try to impress upon us that G.O.Ms.No.444 also shows that 'approved by TNPSC for the post of Assistant Engineers', which means, whatever the list that has been approved by the TNPSC also will precede to this first group of Assistant Engineers. It cannot be so. Insofar as the approved candidates of TNPSC is concerned, whatever has been approved prior to the issuance of G.O.Ms.No.444 insofar as the second group of engineers are concerned, who are the appellants herein, their regularization itself came in only in the year 1992, of course retrospectively. Therefore, when G.O.Ms.No.444 was issued in 1990, it cannot be presumed that after two years the Government is going to issue a Government Order, where the temporarily appointed Junior Engineers



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

would be regularized with effect from the date of initial appointment, of course after getting the concurrence of TNPSC. Therefore, that approval would be taken into account for the purpose of implementing G.O.Ms.No.444, which would go beyond the stretch of imagination. Therefore, that kind of interpretation cannot be given to Para 5(1) of G.O.Ms.No.444 as placed by the learned counsel for the appellants.

31. Therefore, insofar as fixing of seniority among the three categories, category (1) TNPSC selectees, category (2) Assistant Engineers directly appointed under Rule 10(a)(i) and category (3) Junior Engineers subsequently re-designated as Assistant Engineers on acquiring the qualification, seniority must be as per the relevant rule as well as the Government Orders referred to be above with the TNPSC directly selected candidates will have the seniority first, thereafter the Assistant Engineers appointed under Rule 10(a)(i) ie., first group Assistant Engineers will come next and thereafter only these Junior Engineers re-designated as Assistant Engineers will come in the seniority.

32. If that being the position, the seniority given contrary to this rule position or legal position or factual matrix to the re-designated Assistant Engineers above the directly appointed Assistant Engineers of course under Rule 10(a)(i), is bad in law. This has been found in favour of the writ petitioners who are respondents herein by the learned Judge in the impugned order and therefore, the learned Judge has rightly allowed the writ petition in W.P.No.23996 of 2007. The reasoning given by



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

the learned Judge and the conclusion reached by the said learned Judge in the impugned order does not warrant any interference from this Court.

33. As a sequel, in fact the impugned order had been accepted by the official respondents ie., the Government and the Department, and in order to implement the same, they issued G.O.Ms.No.268, Agriculture Department dated 27.10.2017 and a copy of the government order also has been produced by the learned Additional Government Pleader and on instructions he would submit that the orders of the writ Court have been implemented.

34. In this context, it is further to be noted that all these writ appellants have retired from service on superannuation, however, before which they have been given promotion as Assistant Executive Engineer based on the seniority above the Assistant Engineers who have been appointed directly by way of Rule 10(a)(i) and in that capacity as Assistant Executive Engineers these appellants had been working till they reached the superannuation and retired peacefully. After retirement as per the last drawn salary for the designation of Assistant Executive Engineer, their pensions have been calculated and that also has been paid so far to them.

35. In this context, it is further to be noted that, insofar as the fixation of seniority among these two group of engineers are concerned, the decision taken by the learned Judge in the order impugned since have to be approved, accordingly it is



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

approved. Therefore, the benefits whatever shall be accrued on the writ petitioners who are the respondents herein or similarly placed persons shall be extended to them.

36. However, insofar as the writ appellants are concerned, even though they were juniors to the Assistant Engineers directly appointed under Rule 10(a)(i), because of the confusion that had arisen, with the result they were given promotion as Assistant Executive Engineers and in that capacity they had been working for some years and retired from service and moreover, based on which whatever benefit that has been given to them cannot be said to be an unjust enrichment as they have been promoted and from them work as Assistant Executive Engineers had been extracted by the Department.

37. Therefore, those engineers are also entitled to continuously claim the pension based on their last drawn salary, which is already being paid to them. Therefore, that position need not be disturbed.

38. Insofar as the other two writ appeals ie., W.A.Nos.1271 and 1274 of 2016 are concerned, it was only a Mandamus that was issued by the learned Judge in the impugned orders in W.P.No.17896 of 2016 dated 26.05.2016 whereby a direction was given to implement the order passed by the earlier writ Court in W.P.No.23996 of 2007 and the said order in fact had been implemented and a Government Order



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

to that effect also had been issued in G.O.Ms.No.268 as stated supra, hence the challenge made against the said order passed by the learned Judge in W.P.No.17896 of 2016 has become infructuous.

39. In view of the aforesaid, the following orders are passed in these writ appeals.

- The order passed by the writ Court in W.P.No.23996 of 2007 dated 05.03.2015 is to be sustained. Accordingly, it is sustained.
- As a result, writ appeals in W.A.Nos.1720 and 1786 of 2015 are liable to be dismissed. Accordingly, the same are dismissed. No costs. Consequently, connected miscellaneous petition is closed.
- However, the writ appellants since had been promoted and was working till their superannuation as Assistant Executive Engineer, their post retiral benefits including pension shall not be altered.
- In view of the aforesaid, the orders impugned in W.A.Nos.1720 and 1786 of 2015, W.A.Nos.1271 and 1274 of 2016 are dismissed as having become infructuous. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K.,J..) (K.B.,J.)
08.09.2023

Index : Yes
Internet : Yes
KST



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

WEB COPY

1. The Secretary To Government
Agriculture Department Fort St.George
Chennai - 9.
2. The General Secretary
Engineering Graduates (Agricultural Engineering)
Association, 487 Anna Salai
Nandanam Chennai - 35.
3. The Chief Engineer
Agricultural Engineering Dept Nandanam
Chennai.
4. The Secretary
Tamil Nadu Public Service Commission, Chennai.



WEB COPY



W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 and 1274 of 2016

R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

KST

W.A.Nos.1720 & 1786 of 2015
and W.A.Nos.1271 & 1274 of 2016

08.09.2023