



W.A.Nos.1994 and 1995 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

CORAM:

THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN
AND

THE HONOURABLE Mrs.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.A.Nos.1994 and 1995 of 2012

and

M.P.Nos.1 and 2 of 2012

- 1.The Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Chennai – 600 009.
- 2.The Secretary to Government,
Finance Department,
Secretariat, Chennai – 600 009.
- 3.The Secretary to Government,
Agriculture Department,
Secretariat, Chennai – 600 009.

...Appellants in W.A.No.1994/12

- 1.The Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Chennai – 600 009.
- 2.The Secretary to Government,
Finance Department,
Secretariat, Chennai – 600 009.



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3.The Under Secretary to Government,
Finance Department,
Secretariat, Chennai – 600 009.

4.The Secretary to Government,
Agriculture Department,
Secretariat, Chennai – 600 009.

...Appellants in W.A.No.1995/12

Vs.

1.P.Narayanan

2.V.Vimala

...Respondents in both WAs

Common Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, against the common order made in W.P.Nos.5079 of 2007 (O.A.No.9655 of 1997) and 5084 of 2007 (O.A.No.7052 of 2000) dated 26.09.2011.

For Appellants : Mr.S.Silambanan,
Additional Advocate General
Assisted by Mr.L.S.M.Hasan Fizal,
Additional Government Pleader
in both Writ Appeals

For Respondents : Mr.N.G.R.Prasad
For M/s. Row & Reddy for R1
R2 – served – no appearance



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COMMON JUDGMENT

(Judgment was made by **R.SUBRAMANIAN, J.**)

Challenge in these intra-Court appeals is to the common order of the writ Court allowing the writ petitions filed by the private respondents seeking a mandamus directing the appellants 1 and 2 to sanction and create a supernumerary post of Assistant in the scale of pay of Rs.1100-25-1150-30-1660 with effect from 01.10.1996 till the need ceases so as to enable the 1st respondent to be promoted as Assistant with effect from 01.10.1996 and to sanction all consequential and attendant service and monetary benefits in the category of Assistant on par with the 2nd respondent and directing the Government to further promote the 1st respondent to the post of Section Officer as has been done in the case of the 2nd respondent as per G.O.Ms.No.338, Personnel and Administrative Reforms Department dated 08.11.1995.

2. The 1st respondent herein was working in Tamil Nadu Ministerial Service. He was appointed in the Tamil Nadu Secretarial Service and he joined on 27.10.1993. His immediate junior one Vimala, the 2nd



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respondent herein joined the said service on 28.10.1993. It is not in dispute that the said Vimala and the 1st respondent were recruited as Typist in Tamil Nadu Ministerial Service in 1988 and 1990 respectively.

3. However, while they were recruited to Tamil Nadu Secretarial Service by transfer, the 1st respondent joined on 27.10.1993 and the 2nd respondent joined on 28.10.1993. The 1st respondent was allotted to Agriculture Department and the said Vimala was allotted to Finance Department. The One Unit System which was prevalent in the Secretarial Service was disturbed and the Law Department and the Finance Department were de-linked from the One Unit System, thereby giving opportunity to the persons working in those two departments to have accelerated promotion. This created disparity among the employees working in Secretariat.

4. In order to remove the same, the Government issued G.O.Ms.No.338, Personnel and Administrative Reforms (U) Department, dated 08.11.1995, wherein, it provided for accelerated promotion to the persons working in other departments on par with their immediate juniors.



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Another Government Order viz., G.O.Ms.No.126, Personnel and Administrative Reforms (U.Spl.) Department, dated 29th May 1998 was also issued conferring similar benefits on the employees of other departments.

5. G.O.Ms.No.126, Personnel and Administrative Reforms (U.Spl.) Department, dated 29th May 1998 was issued pursuant to the orders of the Tamil Nadu Administrative Tribunal in O.A.No.166 of 1990. In the said Original Application the Tribunal had considered the claim of two employees who were working as Junior Assistants in Tamil Nadu Ministerial Services and were transferred and recruited as Assistants in the Secretarial Services. The Tribunal held that they have to be treated on par and the senior amongst them will have to be placed on par with the junior, who would get accelerated promotion mainly because of the Department to which he or she was assigned.

6. The writ Court allowed the writ petitions relying upon Rule 35(aa) of the Tamil Nadu State and Subordinate Services Rules. The said Rule reads as follows:-



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**(aa) The seniority of a person in a service, class, category or grade shall, where the normal method of recruitment to that service, class, category or grade is by more than one method of recruitment, unless the individual has been reduced to a lower rank as a punishment, be determined with reference to the date on which he is appointed to the services, class, category or grade;*

Mr.L.S.M.Hasan Fizal, Learned Special Government pleader would contend that the date of joining in the Tamil Nadu Ministerial Service has to be taken into account for promotion and seniority. Since the petitioner is junior to the 2nd respondent in the Ministerial Service he cannot seek parity with her.

7. We are unable to accept the submissions of Mr.L.S.M.Hasan Fizal, in view of the aforesaid Rule position. Once there are two methods of recruitment for a particular service, class, category or grade, the seniority has to be determined from the date on which the employee is appointed to that service, class, category or grade. Admittedly, appointment to Tamil



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Nadu Secretarial Services are made either by direct recruitment or through appointment by transfer. Therefore, it is Rule 35(aa) that will govern the situation. The writ Court applied 35(aa) of the Tamil Nadu State and Subordinate Services Rules and directed the petitioner before the writ Court viz., 1st respondent herein to be promoted on par with his immediate junior Vimala.

8. In view of the Rule position, we are unable to fault the writ Court for having allowed the writ petitions. We do not find any merit in the writ appeals and are accordingly dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

(R.S.M., J.) (K.G.T., J.)
07.02.2023

dsa
Index :No
Internet :Yes
Neutral Citation :Yes
Speaking order



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To

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