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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.4722 of 2021 and 16553 & 16558 of 2020
and W.M.P.Nos.20534 and 20536 of 2020

In W.P.No.4722 of 2021

- 1.K.Krishnakumar
- 2.E.Baskaran
- 3.T.Prabu
- 4.M.Ashok Kumar
- 5.K.Indirani
- 6.S.Karikalan
- 7.K.Senthil Kumar
- 8.M.Suvetha
- 9.P.Sivanarul
- 10.K.Lakshmikandhan
- 11.S.Pradeepa
- 12.C.Annakkili
- 13.M.Ponnuthai
- 14.C.Elamaran
- 15.M.Kariamala
- 16.J.Kalpana
- 17.M.Vimal Raj
- 18.V.M.Chitra
- 19.P.Susheela
- 20.B.Palanivel
- 21.R.Suresh Babu
- 22.N.Kalaiselvi
- 23.K.Dineshkaran



24.S.Ramakrishnan
25.S.Deenabandhu
26.N.Srikanth
27.P.Navaneethan
28.A.Ganesh Babu

... Petitioners

Vs.

1.The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George,
Chennai 09.

2.The Additional Chief Secretary/Commissioner,
Commercial Taxes Department,
Chepauk, Chennai 05.

3.The Joint Commissioner (ST),
Commercial Taxes Department,
Coimbatore Division, Coimbatore.

4.R.Santhosh
5.G.Sundar
6.J.Radhika
7.S.Rajani
8.N.Arulnathan
9.A.Mohamed Ismail
10.D.Geetha
11.K.Mylarum Senthil Murugan
12.M.Arrthi
13.A.Dalsy Chithra
14.R.Jayaram

... Respondents

(R4 to R14 impleaded vide order dated 15.07.2022
made in W.M.P.No.14333 of 2022)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records



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of the third respondent in connection with the impugned order passed by her in Ref.No.1207/2017/A1 dated 28.11.2018 and in Ref.No.1757/2019/A1 dated 18.07.2019 and the consequential order issued by the second respondent in Proc.No.P2/25190/2019 dated 25.07.2019 and Proc.No.P2/17933/2017 dated 10.12.2019 and to quash the same and further direct the respondents 1 to 3 to fix the seniority as per Section 40 of Tamilnadu Government Servants (Conditions of Service) Act, 2016 by placing the petitioners over and above the promotee Assistants (in Table-I and II) and as well as the TNPSC special test promote Assistants of the year 2013 and to promote the petitioners as DSTO with all consequential service and monetary benefits.

For Petitioners : Mr.Krishnamoorthy for
Mr.S.Sivakumar

For Respondents : Mr.Haja Nazirudeen, Addl. Advocate General I
Assisted by Mr.M.Venkateswaran,
Special Government Pleader (T) for R1 to R3
Mr.J.Pooventhera Rajan for R4 & R5

In W.P.Nos.16553 & 16558 of 2020

N.Ramesh Petitioner in W.P.No.16553 of 2020

D.Muthukumar Petitioner in W.P.No.16558 of 2020

Vs.

- 1.The Additional Chief Secretary/Commissioner,
Commercial Taxes,
Chepauk, Chennai 05.
- 2.The Joint Commissioner (ST),



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Commercial Taxes,
Tirunelveli Division,
CT Buildings, A.R.Line Road,
Palayamkottai.

... Respondents in both W.Ps

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in connection with the impugned circular passed by him in circular No.18/2018 dated 01.10.2018 and the subsequent letter in Letter No.H2/32534/2015 dated 20.11.2018 and the consequential seniority list published by the second respondent in Proc.No.A8/5585/2018 dated 04.01.2019 and to quash the same and further direct the respondents 1 & 2 to fix the seniority in accordance with law and to promote the petitioner as DSTO with all consequential service and monetary benefits.

For Petitioners : Mr.Krishnamoorthy for
Mr.S.Sivakumar

For Respondents : Mr.Haja Nazirudeen, Addl. Advocate General I
Assisted by Mr.M.Venkateswaran,
Special Government Pleader (T)

COMMON ORDER

These Writ Petitions have been filed to quash the impugned orders and to direct the respondents to fix the seniority of the petitioners in accordance with law and to promote the petitioners as DSTO with all



consequential service and monetary benefits.

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2. Heard Mr.Krishnamurthy, learned counsel for the petitioners in all Writ Petitions and Mr.Haja Nazirudeen, learned Additional Advocate General appearing for the official respondents in all Writ Petitions and Mr.J.Pooventhera Rajan, learned counsel for the private respondents in W.P.No.4722 of 2021.

3. Mr.Haja Nazirudeen, learned Additional Advocate General appearing for the official respondents invited the attention of this Court to the proceedings of the Additional Chief Secretary / Commissioner of Commercial Taxes, Chepauk, Chennai 600 005 dated 25.07.2019.

4. The crux of the above proceedings is that to save public interest and for administrative convenience, the Department thought it fit to promote the qualified Assistants to the post of DCTO on *Adhoc* basis and on condition that those promotees will be reversed to the original post in the event of qualified persons available to occupy the post on regular



basis. Their inclusion in the list is subject to the outcome of the Writ Petitions in W.P.Nos.4963 of 2018 and 12708 of 2018.

5. W.P.No.4963 of 2018 has already been disposed on 03.03.2023 by quashing the proceedings challenging the said Writ Petition. The principles adopted in the said Writ Petition is applicable to the facts of these Writ Petitions also. It is obviously because the very same grounds have been taken by these petitioners also for challenging the impugned order. However, a Writ Appeal has been preferred in W.A.No.372 of 2023 and in which an order of stay has been granted so far as the order in the Writ Petition impacts in reversion.

6. However, it is submitted by the learned counsel for the petitioners that the order of stay granted in W.M.P.No.4081 of 2023 in W.A.No.372 of 2023 is for a limited purpose of staying reversion of an individual to the lower post and not for recasting the seniority in accordance with the orders made in W.P.No.4963 of 2018.



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7. However, stopping of reversion due to the order of stay would also have an impact in reworking the seniority list and hence, for all practical purpose, it is wiser to wait until W.A.No.372 of 2023 is disposed. In the meanwhile, it is also advisable if the respondent Department also prepare year wise seniority list in compliance of the rules and that would resolve larger issue which is being brought to Courts every now and then.

8. With the above observations, these Writ Petitions are disposed. The outcome of the Writ Appeal will have a bearing on the impugned order. So the petitioners can wait until the outcome of the Writ Appeal and renew their representations. Consequently, connected miscellaneous petitions are closed. No costs.

28.11.2023

Index : Yes
Internet : Yes/No
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R.N.MANJULA, J.

gsk

To

1.The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George,
Chennai 09.

2.The Additional Chief Secretary/Commissioner,
Commercial Taxes Department,
Chepauk, Chennai 05.

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3.The Joint Commissioner (ST),
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