



W.P.No.17229 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.17229 of 2016
and
WMP.Nos.14702 to 14705

3.G.Soundirarajan

4.N.R.Jayaseelan

5.S.Palanisamy

6.S.Sekar

8.M.Viswanathan

10.P.M.Raj

11.M.Rukmani

12.S.A.Riyasathullah

13.M.Eswaramoorthy

14.P.Jeevanantham

15.M.Ponnuvel

16.P.Anand

17.M.Shanmugam

18.A.Palanisamy

19.M.Jeganathan

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20.K.Sithuraj

21.V.Raji

22.K.Jawahar

23.G.Boopathy

24.C.Gopal

25.K.Govindan

[Petitioners 1, 2, 7, 9 are deleted vide order dated 19.03.2019, made in WMP.5485/2019 in WP.17229/2016 by PSNJ]

... Petitioners

Vs.

1.The State of Tamil Nadu
rep. by its Principal Secretary,
Municipal Administration & Water Supply
Department,
Secretariat,
Fort St. George,
Chennai-600 009.

2.The Director of Town Panchayats,
Kuralagam,
Chennai-600 108.

3.The Assistant Director of Town Panchayats,
Erode Zone,
Erode District.

4.The District Collector,
Erode District,
Erode.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Government Order in G.O.Ms No.150 dated 19.08.1998 and the consequential proceedings in Ka.No.37790/Peru2/98-2 dated 22.03.1999 on the file of the first respondent and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to promote the petitioners to the post of Typist, Junior Assistant, Bill Collector etc.

For Petitioner : Mr.R.Singaravelan, Sr. Counsel
for Mr.G.Thalaimutharasu

For Respondents : Mr.D.Gopal, GA

ORDER

The petitioners herein were appointed in the Town Panchayat to the post of Office Assistants, Sanitary Supervisors, Street Light Maintenance Worker, Water Supply Workers etc. The Government order in G.O.(Ms) No.150, Municipal Administration and Water Supply Department, dated 19.08.1998, providing for 20% of the seats in the post of Junior Assistants, Junior Assistants cum Typists and Typists from the lower category of Record Clerks, Office Assistants etc., is put under challenge in the present Writ Petition, with the consequential prayer for a direction to the respondents to promote them to the post of Typists, Junior Assistants and Bill Collector etc.



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2. Heard Mr.R.Singaravelan, learned Senior counsel for the petitioners and Mr.D.Gopal, learned Government Advocate appearing on behalf of the respondents.

3. The Government Order in G.O.(Ms), No.150 dated 19.08.1998 has been challenged in the year 2016, after a lapse of more than 18 years. Much proceedings have culminated after this Government Order was issued and this Court in various Writ Petitions have directed the Governmental Authorities to abide by G.O.(Ms) No.150 dated 19.08.1998 for the purpose of granting promotions. At this stage, when no satisfactory explanation has been rendered by the petitioners for lapse of 18 long years, interference to the impugned Government Order would not be possible and such a prayer if ordered, would affect the rights of numerous persons, who have been promoted in the light of G.O.(Ms) 150 dated 19.08.1998. On this ground, the Writ Petition is liable to be dismissed.

4. Insofar as the consequential promotions sought for by the petitioners herein, the mode of promotion under G.O.(Ms) No.150 dated 19.08.1998, has been in existence for more than 18 years and also



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been acted upon in the meantime. When such a procedure adopted by the respondents for promotion has not been disturbed for a considerable time, it would not be open to the petitioners to claim promotions as a matter of right. In the case of **Shiba Shankar Mohapatra and Others Vs. State of Orissa and Others** reported in **2010 (12) SCC 471**, the Hon'ble Supreme Court had dealt with the promotions based on seniority list and held that, when the seniority list which is in existence for a considerable time, would not be disturbed.

The relevant portion of the order reads as follows:-

"30. Thus, in view of the above, the settled legal proposition that emerges is that once the seniority had been fixed and it remains in existence for a reasonable period, any challenge to the same should not be entertained. In K.R. Mudgal (supra), this Court has laid down, in crystal clear words that a seniority list which remains in existence for 3 to 4 years unchallenged, should not be disturbed. Thus, 3-4 years is a reasonable period for challenging the seniority and in case someone agitates the issue of seniority beyond this period, he has to explain the delay and laches in approaching the adjudicatory forum, by furnishing satisfactory explanation."



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5. The aforesaid analogy would apply to the mode of promotions prescribed under G.O.(Ms) No.150 dated 19.08.1998 and therefore, interference to the same after 18 years and the consequential promotions thereafter, would not be sustainable.

6. For all the foregoing reasons, I do not find any merits in the present Writ Petition. Accordingly, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petitions are closed. There shall be no order as to costs.

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Index :Yes / No
Order : Speaking / Non Speaking
Neutral Citation: Yes / No

DP



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To

- 1.The Principal Secretary,
State of Tamil Nadu
Municipal Administration & Water Supply
Department,
Secretariat,
Fort St. George,
Chennai-600 009.
- 2.The Director of Town Panchayats,
Kuralagam,
Chennai-600 108.
- 3.The Assistant Director of Town Panchayats,
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M.S.RAMESH,J.

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