



W.P.No.15752 & 15753 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	28.02.2023
PRONOUNCED ON :	19.04.2023

CORAM:
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.Nos.15752 & 15753 of 2014

R.Ramamoorthy

... Petitioner in
W.P.No.15752 of 2014

K.Balasubramanian

... Petitioner in
W.P.No.15753 of 2014

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Municipal Administration and
Water Supply Department(MAWS),
Secretariat, Fort St.George, Chennai 600 009

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

... Respondents in both
writ petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the first respondent in Letter No.22478/TPI/2014-2 dated 18.03.2014 to the petitioner



W.P.No.15752 & 15753 of 2014

and quash the same and consequently direct the respondents to include the name of the petitioners in the seniority list issued by the second respondent in Na.Ka.No.6793/2009/A7 dated 12.07.2013 in the appropriate place on par with juniors with consequential and other attendant benefits with payment of arrears of salary and revision of pensionary benefits within a time frame to be fixed by this Court.

For Petitioners : Mr.S.Nedunchezhiyan

For R-1 : Mr.S.Ravichandran,
Additional Government Pleader

For R-2 : No Appearance

COMMON ORDER

The above writ petitions are filed praying to quash the order of the first respondent/Secretary to Government, MAWS Department, dated 18.03.2014 passed in Appeal preferred by the petitioners and for a consequential direction to include the petitioners' name in the Seniority List dated 12.07.2013 in the appropriate place on par with juniors with consequential and other attendant benefits with payment of arrears of salary and revision of pensionary benefits.



W.P.No.15752 & 15753 of 2014

2. Since the issue involved in both the writ petitions are one and the same, they are disposed of by this common order.

3. The petitioner in W.P.No.15752 of 2014 was appointed as Junior Assistant on 25.10.1971 and petitioner in W.P.No.15753 of 2014 was appointed as Typist on 17.07.1974, in Town Panchayat Services and subsequently, they were given promotion to the post of Selection Grade Executive Officer on 31.12.2000 and as Assistant Director of Town Panchayat on 02.03.2011 and both the petitioners attained the age of superannuation and retired from service on 30.09.2009 and 30.09.2011 respectively.

4. The petitioners herein earlier filed W.P.Nos.401 and 402 of 2014 seeking direction to the 1st respondent to pass orders on the appeal submitted by them and for other reliefs.

5. This court after going through the submissions made by the petitioners, observed that various categories of posts in Town Panchayat Department are governed by Special Rules for Tamil Nadu Town Panchayat Subordinate Services notified in G.O.Ms.No.270 Rural Development



W.P.No.15752 & 15753 of 2014

Department dated 04.04.1990. As per Rule 6 of Special Rules, for the post of Executive Officer Grade II and Executive Officer Grade-I Selection Grade, the Revenue District concerned shall be the unit for appointment, reversion or discharge and other conditions for service. Initially, District Level Seniority was being maintained in ministerial posts, due to which, there were large scale discrepancies, with reference to the promotion to the post of Special Grade Executive Officer/ Executive Officer, thereby creating serious service anomaly. By order dated 07.01.2014, this court disposed of the writ petitions, with a direction to the 1st respondent to consider the appeal on merits, within a period of eight weeks from the date of receipt of a copy of that order.

6. Thereafter, the 1st respondent has rejected the appeal and passed the impugned order dated 18.03.2014, holding that the petitioners' seniority shall not be placed above on those who were protected under Saving Clause as per G.O.Ms.No.270 dated 04.04.1990. Aggrieved by the said impugned order, the present writ petitions are filed before this court.

7. The ground taken by the learned counsel for the petitioners is that the petitioners ought to have been given the benefits of revision of seniority by



W.P.No.15752 & 15753 of 2014

taking into consideration of date of appointment in the Ministerial Services for fixation of seniority in the post of Executive Officer Grade II/Assistant/Head Clerk.

8. On the other hand, the learned Additional Government Pleader would submit that the impugned proceedings passed by the 1st respondent is based on the G.Os passed by the State and the revision of seniority as sought for by the petitioners cannot stand for scrutiny.

9. Heard both sides and perused the materials placed before this Court.

10. A perusal of the impugned order would go to show that the appeal of the petitioners was rejected for the reason that their seniority shall not be placed above on those who were protected under Saving Clause as per G.O.Ms.No.270, dated 04.04.1990.

11. The Special Rules published under G.O.Ms.No.270 dated 04.04.1990 granted Saving Clause to protect those holding the post as on 04.04.1990. The petitioners are eligible for fixation of pay notionally based on



W.P.No.15752 & 15753 of 2014

the State Level Seniority list published on the year which he was considered for promotion.

12. Under G.O.Ms.No.270 Rural Development Department dated 04.04.1990, Saving Clause, reads as under:-

“10. Savings Clause: Nothing contained in these rules shall adversely affect the persons holding any of the posts referred to in these rules on the date of issue of those rules.”

13. The impugned order passed by the 1st respondent makes it clear that based on the postings on the date of joining the service, seniority has been fixed for the petitioners which was based on G.O.Ms.No.270 dated 04.04.1990. As such, the petitioners are not entitled for revision of seniority as claimed by them.

14. For the reasons stated above, the Writ Petitions fail and accordingly, the writ petitions are dismissed. No costs.

nvsri

19.04.2023



W.P.No.15752 & 15753 of 2014

To:

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- 1.The Secretary to Government,
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Water Supply Department(MAWS),
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2. The Director of Town Panchayats,
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W.P.No.15752 & 15753 of 2014

J.NISHA BANU, J.,

nvsri

Common Order made in
W.P.Nos.15752 & 15753 of 2014

Dated:
19.04.2023