



WP.Nos.21526, 21529 & 21531 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.Nos.21526, 21529 & 21531 of 2023
and W.M.P.Nos.20898, 20901 & 20903 of 2023

1.A.Srinivasan

2.K.Jayaraman

.. Petitioners in W.P.No.21526 of 2023

1.A.Janaki

2.P.Sasikala

.. Petitioners in W.P.No.21529 of 2023

1.C.Ayyasaamy

2.S.Muthamil Arasu

.. Petitioners in W.P.No.21531 of 2023

Versus

1.The Additional Chief Secretary

Water Resource Department

Secretariat, Chennai – 600 009

2.The Engineer in Chief

Water Resource Department

Chepauk, Chennai – 600 005

3.The Secretary

Tamil Nadu Public Service Commission (TNPSC)

Park Town, V.O.C.Nagar

Chennai – 600 003

.. Respondents in W.P.Nos.21526 & 21529 of 2023

1.The Principal Secretary to Government

Public Works Department

Secretariat, Chennai – 600 009



WP.Nos.21526, 21529 & 21531 of 2023

2.The Engineer in Chief
Public Works Department
Chepauk, Chennai – 600 005

3.The Secretary
Tamil Nadu Public Service Commission (TNPSC)
Park Town, V.O.C.Nagar
Chennai – 600 003

.. Respondents in W.P.No.21531 of 2023

Prayer in W.P.No.21526 of 2023: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 10.07.2023 and consequently direct the respondent to promote the petitioners to the Post of Executive Engineer.

Prayer in W.P.No.21529 of 2023: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 17.05.2023 and 22.06.2023 and consequently direct the respondent to promote the petitioners to the Post of Superintendent Engineer in light of the order passed by the Hon'ble Supreme Court in P.Madhu Vs. K.Nanda Kumar and another in Contempt Petition (Civil) Diary No.6415 of 2021 dated 18.04.2023.

Prayer in W.P.No.21531 of 2023: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 22.06.2023 and 12.07.2023 and consequently direct the respondent to promote the petitioners to the Post of Superintendent Engineer in light of the order passed by the Hon'ble Supreme Court in P.Madhu Vs. K.Nanda Kumar and another in Contempt Petition (Civil) Diary No.6415 of 2021 dated 18.04.2023.

In all cases

For Petitioners : Mr.Naveen Kumar Murthi
for M/s.S.Varsha

For Respondents : Mr.M.Alagu Goutham for R1 & 2
Government Advocate
Mr.R.Bharanidharan for R3



WP.Nos.21526, 21529 & 21531 of 2023

COMMON ORDER

Writ petition in W.P.No.21526 of 2023 has been filed seeking to direct the respondents to consider the representation of the petitioners dated 10.07.2023 and consequently direct the respondent to promote them to the Post of Executive Engineer.

2. Writ petitions in W.P.Nos.21529 & 21531 of 2023 have been filed seeking to direct the respondents to consider the representations of the petitioners and consequently direct the respondents to promote them to the post of Superintending Engineer in light of the order passed by the Hon'ble Supreme Court in P.Madhu Vs. K.Nanda Kumar and another in Contempt Petition (Civil) Diary No.6415 of 2021 dated 18.04.2023.

3. Since, the facts and circumstances in these cases are identical in nature, they are disposed of by way of this Common Order.

4. It is the case of the writ petitioners that they have joined service in the Public Works Department & Water Resource Department as Assistant Engineers for the selection that took place in the year 1997-1998 & 1998-1999 through Tamil Nadu Public Service Commission. While, the petitioners were recruited, the seniority fixation was done in accordance with the Judgement of



WP.Nos.21526, 21529 & 21531 of 2023

the Hon'ble Supreme Court in *P.S.Ghalaut vs. State of Haryana and others*.

However, in the year 2003, the Hon'ble Supreme Court in the judgment of *Bimlesh Tanwar vs. State of Haryana* had declared that the fixation of seniority in any particular position cannot be based on roster points but rather ought to be on merit. Therefore, is the contention of the learned counsel for the petitioner that the petitioner's seniority is finalised prior to 2003 and that cannot be revisited as per the dictum of the Hon'ble Apex Court. Now, it is their grievance that the respondents are trying to revisit the original seniority position of the petitioners. Therefore, in this regard, they had given representations which are pending without consideration till date. Hence, these writ petitions.

5. Heard both sides and perused the materials placed on record. It is relevant to note that in Contempt Petition (Civil) Diary No.6415 of 2021, the Hon'ble Apex Court, vide Order dated 18.04.2003, in paragraphs 17 and 22 has held as follows:

"...17. We, therefore, though are not inclined to disturb the seniority lists which are finalized prior to 10th March, 2003 wherein the benefit is granted to either of the parties i.e. as per the roster or as per the seniority list, the seniority list finalized after 10th March, 2003 will have to be re-visited in 12 accordance with the law laid down by this Court in Bimlesh Tanwar (supra) and the first judgment of the Madras High Court.



WP.Nos.21526, 21529 & 21531 of 2023

WEB COPY

22. It is further made clear that if any list is finalized in case of selections held prior to 2003 giving benefit to the persons selected as per their seniority or as per merit, the same shall also not to be disturbed."

6. The matter is still pending before the Hon'ble Apex Court and the same is posted on the 18.07.2023 for compliance. Further, in W.P.(MD).Nos.21380 of 2022 etc., this Court, by Order dated 19.06.2023, following the directions of the Order of the Hon'ble Apex Court has also held that the promotion panel will have to be redrawn. So far, the promotion panel has not been implemented, it shall therefore be redrawn and directed the respondents to complete such exercise within a period of eight weeks from the date of receipt of that order.

7. Such view of the matter, considering the above directions of this Court, the respondents are directed to consider the respective representations of the petitioners dated 17.05.2023, 22.06.2023, 10.07.2023 & 12.07.2023 and pass appropriate orders on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this Order.



WP.Nos.21526, 21529 & 21531 of 2023

8. Accordingly, these writ petitions stands disposed of. Consequently,
connected miscellaneous petitions are closed. No costs.

20.07.2023

dhk

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

To

<https://www.mhc.tn.gov.in/judis>



WP.Nos.21526, 21529 & 21531 of 2023

1.The Additional Chief Secretary
Water Resource Department
Secretariat, Chennai – 600 009

2.The Engineer in Chief
Water Resource Department
Chepauk, Chennai – 600 005

3.The Secretary
Tamil Nadu Public Service Commission (TNPSC)
Park Town, V.O.C.Nagar
Chennai – 600 003

4.The Principal Secretary to Government
Public Works Department
Secretariat, Chennai – 600 009

5.The Engineer in Chief
Public Works Department
Chepauk, Chennai – 600 005

N.SATHISH KUMAR, J.



WEB COPY



WP.Nos.21526, 21529 & 21531 of 2023

dhk

WP.Nos.21526, 21529 & 21531 of 2023
and W.M.P.Nos.20898, 20901 & 20903 of 2023

20.07.2023
(1/2)