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W.P.Nos.28773, 28775 and 28777 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P.Nos.28773, 28775 and 28777 of 2023 &  
W.M.P.No.28371, 28374 and 28377 of 2023

|                     |     |                                    |
|---------------------|-----|------------------------------------|
| M.Udhayakumar       | ... | Petitioner in W.P.No.28773 of 2023 |
| C.Ramamurthy        | ... | Petitioner in W.P.No.28775 of 2023 |
| M.Karthick Ragunath | ... | Petitioner in W.P.No.28777 of 2023 |

Vs.

1. The State of Tamilnadu  
rep. By its Principal Secretary,  
Revenue & Disaster Management Department  
Secretariat, Fort St. George,  
Chennai – 9

2. The Additional Chief Secretary /  
Commissioner of Revenue Administration,  
Chepauk, Chennai – 5

3. The District Collector,  
Kancheepuram District,  
Collectorate,  
Kancheepuram

4. The District Collector,  
Chengalpet, Collectorate,  
Chengalpet

... Respondents in all the petitions

Writ Petitions filed under Article 226 of the Constitution of India for  
issuance of a Writ of Mandamus directing the 2<sup>nd</sup> respondent to consider  
the objections dated 21.06.2022; 03.02.2023 and --.07.2022 respectively to



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the temporary panel of Deputy Tahsildars published vide proceedings of the 3<sup>rd</sup> respondent herein in R.C.No.6/2022/A3 dated 02.05.2022 in the light of the order passed in W.P.No.18725 of 2018 & etc., batch dated 15.11.2019 within a time frame.

For Petitioners : Mr.M.Santhanaraman

For Respondents : Mr.M.Bindran  
Additional Government Pleader

### **COMMON ORDER**

Since the issues involved in all the petitions are one and the same, they are taken uptogether and a common order is being passed. With consent on either side, the main Writ Petitions themselves are taken up for final disposal at the admission stage.

2.The present Writ Petitions have been filed seeking for issuance of Writ of Mandamus directing the 2<sup>nd</sup> respondent to consider the objections dated 21.06.2022; 03.02.2023 and --.07.2022 respectively to the temporary panel of Deputy Tahsildars published vide proceedings of the 3<sup>rd</sup> respondent herein in R.C.No.6/2022/A3 dated 02.05.2022 in the light of the order passed in W.P.No.18725 of 2018 & batch dated 15.11.2019 within a time frame.



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3. According to the petitioners, Initially the petitioners were appointed to the post of Revenue Assistant and after completing unblemished service, promoted as Deputy Tahsildar vide proceedings dated 29.06.2018 and at present, they are working as Deputy Tahsildars in Thiruporur Taluk of Chengalpattu District. While recruiting candidates to the post of Revenue Assistants, the interse seniority was fixed based on the communal roaster and the consequential promotion to the post of Deputy Tahsildar was made under the said proceedings dated 29.06.2018, against which, a Writ Petition No.18725 of 2018 was filed by one D.Vijayakumar and the Hon'ble Division Bench of this Court directed the respondents to redo the exercise of fixation of seniority based on merits within 12 weeks. As against the said petition, an appeal was preferred before the Hon'ble Supreme Court of India and the said appeal was dismissed. In such circumstances, the 3<sup>rd</sup> respondent vide proceedings in RC.No.06/2022/A3 dated 02.05.2022 has published the temporary panel of Deputy Tahsildars purportedly in accordance with their relative seniority, which is contrary, as against the same, the petitioners have submitted their objections dated 21.06.2022; 03.02.2023 and -- .07.2022 and the same has not been considered, however, the 2<sup>nd</sup> respondent had issued the letters dated 04.03.2022, 04.04.2022 & 29.05.2023 to all the District Collectors to follow the orders passed by this Court as well as Hon'ble Supreme Court.



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4. The learned counsel for the petitioners would submit that with regard to the original writ petitioners, in cases which were decided by this Court in its orders in the years 2015 and 2019, which were affirmed by this Court in the years 2016 and 2020, the Departments have implemented the orders revising the seniority with consequential benefits and reported the compliance to this Court during its hearing on 01.10.2021, however, the Government of Tamilnadu till now not complied the same and also not issued G.O., for proper implementation of the above judgments in Revenue Department, hence this petition.

5. Mr.M.Bindran, learned Additional Government Pleader takes notice for the respondents and submitted that if a period of eight weeks time is granted, the respondents would consider the case of the petitioners.

6. Heard the learned counsels on either side and perused the documents placed on record.

7. It is worthwhile to recall and recollect the operative portion of the order passed by the Hon'ble Division Bench of this Court in W.P.No.18725 of 2018 etc., batch dated 15.11.2019, wherein at Paragraph nos.37.20,



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37.21, 37.22 and 37.23 and 38 it is held as follows:

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*“37.19. The other contention is that the present procedure has been followed from 2003 onwards. Thus, the understanding of an Executive Authority in adopting the particular procedure on an interpretation of the provision will have to be allowed to be continued. This contention also deserves to be rejected as illegality cannot be justified on the ground of being followed for more number of years. It is nothing but a perpetuation of a wrong.*

*37.20. The petitioners are aggrieved only now and therefore, it is for the official respondents to satisfy the genuineness of the procedure followed. Rule 22(c), which is in pari materia to Section 27(e) of the Act prescribes the procedure. This provision leaves no room that what is involved is only a selection. Article 16 of the Constitution of India cannot be invoked to justify the case of a less meritorious candidate being fitted into a 'general turn' though others are waiting in queue. Such a procedure adopted is totally arbitrary to say at the least.*

*37.21. A procedure, which is being followed contrary to rule, cannot be approved by the Court, especially when it affects the right of the citizen. Section 27(d) of the Act and Rule 22(b) merely provide for meritorious reserved candidates to adopt for reserved category when it confers better benefit. However, a reserved candidate, having secured lesser marks than the other meritorious candidates, cannot supercede them by getting into the 'general turn', which procedure is not even contemplated either in the Rules or the Act. Thus, the*



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*contention raised that neither the Rule nor an Act has been challenged cannot be countenanced because they do not provide for such a procedure.*

*37.22. The endeavour of the learned Senior Counsel to read Section 27(e) of the Act and Rule 22(c) by reading the word; selection; as fitment and seniority also cannot be accepted on the general principle of interpretation of a statute. We do not find any ambiguity in the words used. They also clarify that selection of a meritorious reserved candidate in the general turn on merit would not affect the reserved list. Hence there is absolutely no connection between 'general turn' and 'reserved' Thus, the procedure adopted by the official respondents is nothing but an indirect way of reservation even beyond 69%. The candidates were never informed about their marks obtained. Thus, they have been kept in dark. In such view of the matter, we are of the view that W.P.Nos.998 of 2017 and 10021 of 2018 deserve to be entertained.*

*37.23. W.A.No.2610 of 2019 is also to be allowed as a consequence to the allowing of the writ petitions challenging the vires of the provisions dealt with earlier. The learned single Judge merely dismissed the writ petition by taking note of the impugned provisions and therefore, the appellant is entitled to the relief sought for.*

### **38. CONCLUSION:**

*In the light of the discussion and the findings hereinabove, the following conclusion is arrived at.*

*(i) Sections 1(2), 40 and 70 of the Tamil Nadu*



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*Government Servants (Conditions of Service) Act, 2016, are declared as ultra vires and unconstitutional;*

*(ii) The respondents are directed to redo the exercise of fixation of seniority within a period of 12 weeks from the date of receipt of a copy of this order;*

*(iii) Delay, laches, acquiescence and accrued right are the factors to be considered by the Court when similar reliefs are sought for in future;*

*(iv) W.P.Nos.1147, 5735, 22852, 34311, 34312 of 2017, 7511, 8718 to 8720, 18725, 26442 and 31156 of 2018 are allowed;*

*(v) W.A.No.2610 of 2019 is also allowed;*

*(vi) W.P.Nos.998 of 2017 and 10021 of 2018 stands disposed of with a direction that the petitioners are entitled to the benefit conferred under the order of the Division Bench in Santhosh Kumar's case;*

*(vii) W.P.No.6649 of 2017 stands allowed with respect to the consequential relief sought for;*

*(viii) Consequently, the respondents are directed to re-fix the seniority within a period of twelve weeks from the date of receipt of a copy of this order; and*

*(ix) W.P.Nos.11150, 11151 and 22136 of 2018 are dismissed.*

*No costs. Consequently, all connected miscellaneous petitions stand closed.*

8. Considering the submission of the learned counsel for the

<https://www.mhc.tn.gov.in> petitioners, without going into the merits of the cases, the respondents are



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directed to consider the objections filed by the petitioners dated 21.06.2022; 03.02.2023 and --.07.2022 respectively and pass appropriate orders on merits and in accordance with law taking note of the judgment passed in W.P.No.18725 of 2018 etc., batch dated 15.11.2019 within a period of eight weeks from the date of receipt of copy of this order.

7. Accordingly, the Writ Petitions are disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

**04.10.2023**

Index:Yes/No  
Internet:Yes/No  
Speaking / Nonspeaking order  
ssd  
To

1. The State of Tamilnadu  
rep. By its Principal Secretary,  
Revenue & Disaster Management Department  
Secretariat, Fort St. George,  
Chennai – 9

2. The Additional Chief Secretary /  
Commissioner of Revenue Administration,  
Chepauk, Chennai – 5

3. The District Collector,  
Kancheepuram District,  
Collectorate,  
Kancheepuram

4. The District Collector,

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



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Chengalpet, Collectorate,  
Chengalpet

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**V.BHAVANI SUBBAROYAN J.**

ssd

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W.M.P.No.28371, 28374 and 28377 of 2023



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