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W.P.No.30872, 30876 and 26195 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.30872, 30876 and 26195 of 2023

and

**W.M.P.Nos.25599, 25600, 25601, 30528, 30529, 31000, 30531, 30532 and
30999 of 2023**

W.P.No.30872 of 2023

Subbaraj Sundaram

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Public Works Department,
The Secretariat, Fort St. George,
Chennai – 600 009.
2. The Additional Chief Secretary to Government,
Water Resources Management,
The Secretariat, Fort St. George,
Chennai – 600 009.
3. The Engineer in Chief (WRO) and Chief Engineer (General),
Government of Tamil Nadu,
Public Works Department,
Chepauk, Chennai – 600 005.
4. The Engineer in chief,
Public Works Department,
Chepauk, Chennai – 600 005.



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5. Tamil Nadu Public Service Commission (TNPSC),
Represented by its Secretary,
Park Town, V.O.C Nagar,
Chennai – 03.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to G.O (3D) No.29, Public Works (A1) Department dated 20.10.2021 and quash the same and consequentially direct the respondents to maintain the petitioner's original seniority in the post of Assistant Engineers as determined at the time of selection in Tamil Nadu Engineering Service of the year 1997-1998.

For Petitioner : Mr.Richardson Wilson

For R1 to R4 : Mr.J.Ravindran,
Additional Advocate General
assisted by
Mrs.V.Yamuna Devi

For R5 : M/s.Niraimathi,
Standing Counsel

W.P.No.30876 of 2023

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... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,



Public Works Department,
The Secretariat, Fort St. George,
Chennai – 600 009.

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2. The Additional Chief Secretary to Government,
Water Resources Management,
The Secretariat, Fort St. George,
Chennai – 600 009.
3. The Engineer in Chief (WRO) and Chief Engineer (General),
Government of Tamil Nadu,
Public Works Department,
Chepauk, Chennai – 600 005.
4. The Engineer in chief,
Public Works Department,
Chepauk, Chennai – 600 005.
5. Tamil Nadu Public Service Commission (TNPSC),
Represented by its Secretary,
Park Town, V.O.C Nagar,
Chennai – 03.
6. S.Kumar
7. S.Rajkumar
8. K.Selvakumar ... Respondents
[R6 to R8 impleaded vide order dated 15.11.2023 in W.M.P.No.31850 of 2023]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to G.O (3D) No.30, Public Works (A1) Department dated 20.10.2021 and quash the same and consequentially direct the respondents to maintain the petitioner's original seniority in the post of Assistant Engineers as determined at the time of selection in Tamil Nadu



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Engineering Service of the year 1997-1998.

For Petitioner : Mr.Richardson Wilson

For R1 to R4 : Mr.J.Ravindran,
Additional Advocate General
assisted by
Mrs.V.Yamuna Devi

For R5 : M/s.Niraimathi,
Standing Counsel

For R6 to R8 : Mr.N.Subramanian

W.P.No.26195 of 2023

1. S.Muthamil Arasu
2. C.Ayyasaamy

... Petitioners

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Public Works Department,
The Secretariat, Fort St. George,
Chennai – 600 009.
2. The Additional Chief Secretary to Government,
Water Resources Management,
The Secretariat, Fort St. George,
Chennai – 600 009.
3. The Engineer in Chief (WRO) and Chief Engineer (General),
Government of Tamil Nadu,
Public Works Department,
Chepauk, Chennai – 600 005.



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4. The Engineer in chief,
Public Works Department,
Chepauk, Chennai – 600 005.

5. The Secretary,
Tamil Nadu Public Service Commission (TNPSC),
Represented by its Secretary,
Park Town, V.O.C Nagar,
Chennai – 03.

6. S.Rajkumar ... Respondents
[R6 impleaded vide order dated 15.11.2023 in W.M.P.No.27527 of 2023]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, calling for the records pertaining to the G.O (3D) No.28, G.O. (3D) No.29 and G.O. (3D) No.30, Public Works (A1) Department dated 20.10.2021 on the file of 2nd Respondent and quash the same as illegal and consequently direct the respondents to restore the 1st Petitioner's seniority Rank from No.81 to Seniority Rank No.75 and 2nd petitioner's Seniority Rank from No.44 to Seniority Rank No.15, as originally assigned during selection of the petitioner as Assistant Engineer by the 5th Respondent in 1997- 1998 batch.

For Petitioner : Mr.Naveenkumar Murthi
for Mr.R.Prem Chandar

For R1 to R4 : Mr.J.Ravindran,
Additional Advocate General
assisted by
Mrs.V.Yamuna Devi

For R5 : M/s.Niraimathi,
Standing Counsel

For R6 : Mr.N.Subramanian



ORDER

With the consent of both the parties, these Writ Petitions are taken up for final disposal.

2. Being aggrieved against the revision of the seniority list for the post of Assistant Engineer in the Tamil Nadu Engineering Service for the year 1997-1998, which is pursuant to the implementation of the orders of the Hon'ble Supreme Court in the case of *V.Senthur and Another Vs. M.Vijayakumar and Another* reported in *(2021) 10 SCR 200, dated 01.10.2021*, the present Writ Petition has been filed, seeking for restoration of the petitioner's seniority that was originally assigned to her at the time of her selection.

3. This issue was parallelly dealt with by a learned Single Judge of the Madurai Bench of this Court in the case of *C.Sakthimurugan Vs. The State of Tamil Nadu, Rural Development and Panchayat Raj Department and others* passed in *W.P.(MD) No.20670 of 2021, dated 07.11.2023*. The learned Single Judge had dismissed the Writ Petition, by observing as follows:-

“15.In view of the above said facts, it is clear that



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the revised seniority list published by T.N.P.S.C on 12.10.2021 with regard to the Assistant Engineer of Rural Development Department and the consequential order passed by the concerned Department (impugned order) on 20.10.2021 have been placed on record before the Hon'ble Supreme Court and on the basis of the said compliance affidavit, the Hon'ble Supreme Court was pleased to close the contempt proceedings. Therefore, the petitioner cannot be heard to contend that the revised seniority list published by the second respondent Department under the impugned order dated 20.10.2021 is not in consonance with the order of the Hon'ble Supreme Court.

16.The learned Senior Counsel appearing for the writ petitioner made an emphasis over the clarification issued by the Hon'ble Supreme Court in Paragraph No.22 of the order dated 18.04.2023. According to him, the seniority list for the selection held prior to 10.03.2003, giving benefit to the persons selected as per their seniority or as per their merit shall not be disturbed.

17.The Hon'ble Supreme Court was pleased to fix the cut-off date as 10.03.2003 based upon the date of judgment of the Hon'ble Supreme Court in Bimlesh



Tanwar's case. As per Paragraph No.21 of the said judgment of the Hon'ble Supreme Court dated 18.04.2023, all the seniority lists that were finalized after 10.03.2003 have to be revisited and a revised seniority list has to be prepared on the basis of the merit list prepared by T.N.P.S.C. This cut-off date was introduced by the Hon'ble Supreme Court for the first time in their order dated 18.04.2023. Therefore, in Paragraph No.22, the Hon'ble Supreme Court was pleased to clarify that in case if any seniority list for the selections prior to 10.03.2003 has already been revised (from roster to merit based) on the basis of the judgment of the Hon'ble Supreme Court in Bimlesh Tanwar's case, the same shall not be disturbed. In other words, any revision of seniority for the selections prior to 10.03.2003 which have been effected before 18.04.2023 from roster to merit shall not be revised for the second time in view of the introduction of cut-off date in the order of the Hon'ble Supreme Court, dated 18.04.2023.

18.In the present case, the order of the Hon'ble Supreme Court dated 10.01.2021 has already been complied with by the second respondent Department by way of filing compliance affidavit on 15.12.2021 before the Hon'ble Supreme Court. Therefore, seniority list has



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already been revised (from roster to merit based) prior to 18.04.2023 itself. Hence, the contention of the writ petitioner that his communal roster seniority should be restored is not legally sustainable.

19. In view of the above said deliberations, there are no merits in the writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.”

4. The facts involved in the present Writ Petitions are identical to *C.Sakthimurugan's case (supra)* and the decision therein would apply to the present case also. Accordingly, these Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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To

1. The Principal Secretary to Government of Tamil Nadu,
Public Works Department,
The Secretariat, Fort St. George,
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2. The Additional Chief Secretary to Government,
Water Resources Management,
The Secretariat, Fort St. George,
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M.S.RAMESH, J.

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