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WP.No.16677/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.16677/2017 & WMP.Nos.18053/2017

Mrs.K.Kalaivani

... Petitioner

Versus

1.State of Tamil Nadu rep.by
its Secretary to Government
Rural Development & Panchayat
Raj Department, Fort St George
Chennai 600 009.

2.The Director of Rural Development
Panchayat Raj Department, Panagal
Buildings, Saidapet, Chennai 600 015.

3.The District Collector
Salem District, Salem.

4.P.Senthilkumar
5.R.Venkatesa Kumar

... Respondents

****RR4&5 impleaded as per order dated
06.09.2017 in WMP.No.24105/2017 in
WP.No.16677/2017**



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Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 3rd respondent in Na.Ka.No.1865/2017/Ni4 dated 25.04.2017 and quash the same insofar as the petitioner and consequently direct the respondents 1 to 3 to refix the petitioner seniority in the cadre of Assistant by strictly following the rule 35[aa] of Tamil Nadu State and Subordinate Service Rules as amended as Section 40[2] of Tamil Nadu Government Servants Conditions of Service Act, 2016 with all consequential and other attendant benefits including promotion on par with juniors.

For Petitioner	:	No appearance
For RR 1 to 3	:	Mr.S.Ravikumar, Spl.GP
For RR4&5	:	Mr.R.Prem Narayan

ORDER

- (1) Learned counsel for the petitioner is not present. However, heard Mr.S.Ravikumar, learned Special Government Pleader appearing for respondents 1 to 3 and Mr.R.Prem Narayan, learned counsel appearing for respondents 4 and 5 who had been impleaded pending the writ petition.
- (2) The writ petition has been filed seeking interference with an order of the 3rd respondent, the District Collector, Salem, in



WP.No.16677/2017

WEB COPY

Na.Ka.No.1865/2017/Ni.4 dated 25.04.2017 insofar as the petitioner is concerned and direct the respondents 1 to 3 to refix the seniority of the petitioner in the cadre of Assistant by following Rule 35[aa] of the Tamil Nadu State and Subordinate Service Rules as amended by Section 40[2] of the Tamil Nadu Government Servants Conditions of Service Act, 2016. The petitioner also claims that consequent to such refixation, the petitioner should also be paid necessary attendant benefits and also be granted promotion on par with the juniors.

- (3) The entire issue surrounds the post of Assistants in the Rural Development Department in the State of Tamil Nadu. There are two methods in which the post of Assistants are filled up. One is by direct recruitment which is through an examination conducted by the Tamil Nadu Public Service Commission and the other is by promotion from the post of Junior Assistant. The date of promotion/appointment are the same. However, the contention of the petitioner was that the petitioner had joined the duty earlier. The contention of the Tamil Nadu Public Service Commission was that the date of appointment is what is to be considered and not the date of joining and if the date of



WP.No.16677/2017

WEB COPY

appointment is to be considered, both the petitioner and the respondents 4 and 5 stand in the same footing. Thereafter, the seniority list as prepared by the Tamil Nadu Public Service Commission came under scrutiny of the Court and it was directed that the seniority of those who were directly recruited and those who have been promoted, should be based on the marks which were obtained in the qualifying examination and based on the roster basis. This necessitated refixing the seniority.

- (4) My attention is however drawn by the learned Special Government Pleader to the proceedings before the Hon'ble Supreme Court in C.P.[Civil] Diary No.6415/2022 and the order dated 18.04.2023. The matter had reached the portals of the Hon'ble Supreme Court and a direction was given to refix the seniority as on 01.01.2015 and as on 01.01.2016. The respondents appeared to have prepared such a list and have also forwarded the seniority list and those who would be affected, would have an opportunity to raise objections.
- (5) Learned Special Government Pleader had forwarded the seniority list as on 01.01.2015 in the cadre of direct Assistants in the Rural



WP.No.16677/2017

WEB COPY

Development and Panchayat Raj Unit, in Salem District and also the seniority list in the same cadre as on 01.01.2016. Both the seniority lists are revised confirmed seniority lists.

- (6) Since the entire exercise has now been done by the respondents and they have done such exercise on the directions of the Hon'ble Supreme Court, it would be not prudent for this Court to re-examine the issue once again. The petitioner is always at liberty as any other employee to question the revised confirmed seniority list if she has any grievances. But that would be an independent and separate cause and the same cannot be examined by this Court in this writ petition.
- (7) Giving that particular liberty to the petitioner, the writ petition stands **disposed of** as the issue has been addressed by the respondents consequent to the orders of the Hon'ble Supreme Court. No costs. Consequently, connected miscellaneous petition is closed.

27.07.2023

AP
Internet : Yes

To



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WEB COPY



WP.No.16677/2017

C.V.KARTHIKEYAN, J.,

AP

WP.No.16677/2017

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