



W.P(MD)No.15014 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15014 of 2023

and

W.M.P.(MD)No.12636 of 2023

P.Murugavel

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Water Resources Department,
Government of Tamilnadu,
Secretariat,
Chennai – 600 009.

2.The Engineer-in-Chief /
Chief Engineer (General),
Water Resources Department,
Chepauk,
Chennai – 600 005.

3.The Chief Engineer,
Water Resources Department,
Trichy.

4.The Chairman,
Tamil Nadu Public Service Commission,
Part Town, Chennai – 600 003.

... Respondents



W.P(MD)No.15014 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to fix the petitioner's seniority No.24 fit for promotion as Executive Engineer, for the year 2019-2020 as per seniority Rank No.24 originally assigned during selection of petitioner as Assistant Engineer by the 4th respondent in 1997-1998 batch, and consequently direct the respondents herein to delete the name of petitioner as wrongly fixed either in Seniority No.30 or in Seniority No.103 in the light of directions of the Hon'ble Apex Court directions in Contempt Petition (Civil) Diary No.(S) 6415/2021 in SLP (C) No.2889 of 2016 and also considering the representation of the petitioner dated 14.06.2023 submitted to the respondents within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel,
For M/s.Lajapathi Roy and Associates.

For Respondents : Mr.T.Villavan Kothai,
Addl. Government Pleader for R1 to R3.
Mr.J.Anandkumar,
Standing Counsel for R4.



W.P(MD)No.15014 of 2023

ORDER

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Heard the learned senior counsel for the writ petitioner, the learned Additional Government Pleader for the respondents 1 to 3 and the learned standing counsel for the fourth respondent.

2.The petitioner belongs to schedule caste community. He is also an engineering degree holder. He was appointed as Assistant Engineer in Public Works Department in the year 1998. Now the department has been bifurcated and the petitioner is presently working in Water Resources Department as Executive Engineer.

3.Earlier seniority was fixed based on communal roster. It has now held to be held as illegal. Seniority will have to be determined as per merit.

4.However, the Government of Tamil Nadu took a stand before the Hon'ble Apex Court that applying this principle will unsettle settled matters. The Hon'ble Apex Court clarified the position on 18.04.2023 in



W.P(MD)No.15014 of 2023

P.Madhu Vs. K.Nanthakumar and Another. The Hon'ble Apex Court 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 benefits 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 re-visited in accordance with the law laid down by this Court in Bimlesh Tanwar (Supra) and the first judgment of the Madras High Court.”

5.The cut off date has been fixed as 10.03.2003. The learned senior counsel submitted that since the legal position has already been clarified, it would suffice if the authorities are directed to consider the petitioner's representation for retention of his original seniority.

6.The first respondent is therefore directed to consider the petitioner's representation and pass final order on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.



W.P(MD)No.15014 of 2023

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7.This writ petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

23.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

- 1.The Additional Chief Secretary to Government,
Water Resources Department,
Government of Tamilnadu,
Secretariat, Chennai – 600 009.
- 2.The Engineer-in-Chief / Chief Engineer (General),
Water Resources Department,
Chepauk, Chennai – 600 005.
- 3.The Chief Engineer,
Water Resources Department,
Trichy.



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W.P(MD)No.15014 of 2023

G.R.SWAMINATHAN, J.

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W.P(MD)No.15014 of 2023

23.06.2023