



W.P.(MD)Nos.21896 of 2018 and 857 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 08.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.21896 of 2018 and 857 of 2019

and

W.M.P.(MD)Nos.19836 of 2018, 486, 682,
683 of 2019 and 4232 of 2021

W.P.(MD)No.21896 of 2018:

K.Babu
M.S.K.Pandiarajan
C.Sundarajan
A.Palanichamy
S.Rajagopal
S.Srinivasan
V.Karthikeyan
P.Mariammal
P.Meenambal
K.Selvaraj
D.Pitchaimani
B.Saravanan
R.Kathiresan
L.Asai Thambi
M.Sankar
M.Mugunthan
M.Senthilkumar
A.Chakkaravarthi
K.Abirami
P.Rajendran
M.Muthulakshmi
G.Navaneetha Krishnan
K.Arumugam

... Petitioners



W.P.(MD)Nos.21896 of 2018 and 857 of 2019

VS.

- 1.The Commissioner,
Madurai Corporation,
Madurai.
2. Sulthan Ameer
3.T.Jeyaraman
4.V.Arjunan
5.K.Venkatesan
6.D.Selvaraj
7.K.Sadasivam
8.S.Usharani
9.M.Muthumalini
10.M.Kannan
11.R.V.Kumaran Babu
12.M.Manimegalai
13.S.V.S.Ramachandran
14.M.Muthukani Eswaran
15.C.Natarajan
16.S.Chinnachamy
17.M.Thangapandi
18.E.Vanapechi
19.R.Deepa Rathi
20.M.Maheswari
21.J.Rajeswari
22.R.Selvi
23.T.Karthick
24.J.Merlin Joyes
25.V.Arockiya Jeyanthi
26.P.Baskaran
27.T.Raman
28.R.Latha
29.S.Kalieswari
30.B.Sargunam
31.S.Saraswathi
32.J.Mohanalakshmi
33.M.Rajkumar
34.S.Raja Mohamed



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35.A.Muthumari
36.P.Hemalatha
37.A.Alagulakshmi
38.F.Asha
39.P.Venisha Anthoni Jothi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned final seniority list issued by the 1st respondent in his proceedings Ma.Ne.1/025085/2018, dated 20.09.2018 and to quash the same as illegal, arbitrary in so far as the petitioners are concerned and consequently, to direct the 1st respondent to place the petitioners 1 to 3 over and above the respondents 2 to 6 in the final seniority list by taking into account their date of promotion in the post of Record Clerk and Conservancy Inspector and further, to place the petitioners 4 to 23 over and above the respondents 7 to 39 with effect from their date of promotion in the post of Conservancy Inspector.

For Petitioners	: Mr.B.Saravanan Senior Counsel for Mr.D.Kirubakaran
For R1 and 31	: Mr.R.Murali
For R4, 6 to 9, 11, 17 to 23	: Mr.S.Ram Sundar Vijayraj for M/s.Veera Associates

W.P.(MD)No.857 of 2019:

1.S.Kannagi
2.S.Kousalya
3.B.Karuppasamy
4.N.Muthukumar Gnanasambandam

... Petitioners



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VS.

The Commissioner,
Madurai Corporation,
Madurai

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the respondent in Ma.Ni.9/ MaSa1/028453/2018, dated 03.01.2019 and to quash the same and consequently, to direct the respondents not to interfere in the promotional post of petitioner as Assistant in the respondent corporation.

For Petitioners : Mr.S.Ram Sundar Vijayraj
for M/s.Veera Associates

For Respondent : Mr.R.Murali
for M/s.T.S.Mohamed Mohideen

COMMON ORDER

The writ petition in W.P.(MD)No.21896 of 2018 is filed for writ of Certiorarified Mandamus, to quash the impugned final seniority list issued by the 1st respondent in his proceedings, dated 20.09.2018 as illegal, arbitrary in so far as the petitioners are concerned and consequently, to direct the 1st respondent to place the petitioners 1 to 3 over and above the respondents 2 to 6 in the final seniority list by taking into account their date of promotion in the post of Record Clerk and Conservancy Inspector and further, to place the petitioners 4 to 23 over



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and above the respondents 7 to 39 in the final seniority list with effect from their date of promotion in the post of Conservancy Inspector.

2. The brief facts of W.P.(MD)No.21896 of 2018 are that the petitioners are working as Tax Collectors in the 1st respondent corporation. The petitioners were initially appointed to various posts like Sanitary Worker, Record Clerk, Gangman, Motor Attender and other basic services. The petitioners 1 to 3 were appointed as Record Clerk in the year 1996, subsequently, promoted as Conservancy Inspector, through proceedings, dated 03.08.2005 and the petitioners 4 to 23 were appointed as unskilled workers and later on promoted as Conservancy Inspector through the same proceedings dated 03.08.2005 and had been working continuously. In the meanwhile, the first respondent corporation reverted as many as 26 Conservancy Inspectors as Record Clerk from the date of their joining as mentioned in Column No.9 in the reversion order, dated 24.01.2015. The reason assigned for reversion of petitioners 4 to 23 to the post of Record Clerk was that the post of Conservancy Inspector shall be filled by transfer of service from the post of Junior Assistant and not by promotion. Those who are not qualified for promotion shall to be reverted or order of ratification shall be obtained from the Government. The order further states that Class IV Basic Service Employees shall be upgraded as Record Clerk first and thereafter as



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Junior Assistant after completion of probation. As many as 30 employees were promoted as Conservancy Inspectors from Class IV post without working as Record Clerk. Hence, decision was taken to revert 30 employees from the post of Conservancy Inspector to the post of Record Clerk. Subsequently, through 1st respondent proceedings dated 29.01.2015, an order was passed to the effect that the reverted Conservancy Inspectors are eligible for the post of Junior Assistant after completion of two years. As such, the petitioners 4 to 23 were appointed in the post of Conservancy Inspector with effect from the dates mentioned in column 10 of the said list, wherein the petitioners 4 to 17 were appointed on 01.04.2008 and petitioners 18 to 23 were appointed on 01.04.2009. The order further states that the Conservancy Inspectors including the petitioners opted for the post of Tax Collectors and they were appointed in the post of Tax Collectors in the applicable time scale of pay. This order was not challenged by any aggrieved persons.

3. The post of Tax Collector falls under Category 3 Group III Class III of the Tamilnadu Municipal General Subordinate Service Rules. The next avenue for promotion from the post of Tax Collector or Conservancy Inspector is to the post of Assistant. This Court, vide order dated 26.04.2013 passed in W.P.(MD)No. 6403 of 2006 has held that the post of Steno - Typist, Tax Collector and



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Conservancy Inspector are interchangeable with the post of Junior Assistant. The post of Assistant can be filled up by promotion from the post of Junior Assistant Cum Typist and all persons in Group III are eligible to be considered for promotion to the post of Assistant. Therefore, rule position is abundantly clear that all the categories of the post in Group III, Class III of the Tamilnadu Municipal General Subordinate Service Rules are eligible to be promoted to the post of Assistant in Group II. As per the order of the 1st respondent dated 29.01.2015, the petitioners were appointed in the post of Conservancy Inspectors and all the petitioners had opted to work in the post of Tax Collectors instead of the post of Conservancy Inspector, they were appointed as Tax Collectors on 29.01.2015 and their seniority in the post of Tax Collector shall be reckoned from the date of appointment in the post of Conservancy Inspector dated 29.01.2015. In the meanwhile, the 1st respondent had issued a draft seniority list, dated 10.08.2018, wherein the petitioners 1 to 3 were shown as juniors to the respondents 2 to 6 and the petitioners 4 to 23 were shown as juniors to the respondents 7 to 39 and called for objections. The petitioners submitted objections on 24.08.2018 against the said draft seniority list where the direct recruits were kept senior and the petitioners were kept junior to them and requested to take their date of appointment in the post of Conservancy Inspector based on the



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proceedings dated 29.01.2015. In the meanwhile the respondents had passed the impugned order dated 20.09.2018 whereby the petitioners 1 to 3 have been shown as Juniors to respondents 2 to 6 and the petitioners 4 to 23 have been shown as Juniors to respondents 7 to 39. The reason assigned in the impugned order for treating the petitioners as Juniors is that as per Rules 1996, the persons holding the post of Conservancy Inspector and Tax Collector can be transferred to the post of Junior Assistant-Cum-Typist. In the case of one B.M. Akbar Sheriff who worked as Conservancy Inspector, an audit objection was raised on the ground that he did not work in the intermediary post and hence recovery of Rs.3,40,266/- was ordered from his retirement benefits and accordingly the petitioners objections could not be accepted. In the impugned order dated 20.09.2018 the date of joining the Tax Collector post (Revenue Assistant) in the year 2015 was taken into account but the date of joining the post of Conservancy Inspector in the year 2008 was omitted to be considered, thereby the legitimate right of the petitioners for promotion to the higher post is denied. Aggrieved over the impugned seniority list, the present writ petition is filed.

4. The 1st respondent, Commissioner Madurai Corporation had filed counter affidavit along with vacate stay petition. In the counter the respondents



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stated that the common seniority list is for the corporation general subordinate services which includes Junior Assistant/Steno Typist / Tax Collectors etc. The Service Rules prescribes qualification as pass in 12th Standard, pass in English and Tamil Typing and completed Foundational Training and also prescribes method of recruitment for the post of Junior Assistant-Cum-Typist. No one can claim any post by promotion without qualification and without serving in feeder category. Further promotion is always subject to seniority from the feeder category. In order to become Conservancy Inspector no qualification is provided since it is transferable post from Junior Assistant Category. Unless a person satisfies the required qualification to the post of Junior Assistant cum typist, even by promotion a person is not eligible to become a Conservancy Inspector. Moreover, promotion to the post of Junior Assistant Cum Typist must be as per as per seniority from the feeder category namely Driver, Record Assistant and Conservancy Supervisor. To become a Record Assistant the qualification prescribed is pass in 10th standard, must have 5 years' service in Class IV and subject to seniority. Earlier the Corporation without following the above Service Rules had promoted 26 persons as Conservancy Inspectors directly from Class IV employees. As stated above the Class IV employees are first to be promoted to Class III - Group V Service and thereafter, they are eligible to promote to Class



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III-Group III Service upon satisfying the qualifications. In the present case, without following the above service rules, the petitioners were directly promoted from Class IV Basic Service to Group III, Class III subordinates service without working in Group V category. The promotions to the post of Conservancy Inspector were issued subject to the condition of approval to the Government. Admittedly, the Government has not approved the same. The petitioners never functioned in the post of Record Clerk. On the other hand, by proceedings dated 24.01.2015, they were reverted as Record Clerk. Further, the petitioners are not having required qualification for promotion to the post of Conservancy Inspector / Junior Assistant which is a Class III, Group III post. For Madurai Corporation, the sanctioned post of Record Clerk is 23 but in spite of the same in the proceedings, dated 24.01.2015, 26 persons were posted as Record Clerk. The decision of the Corporation to appoint the petitioners as Tax Collectors with effect from 29.01.2015 is not in tune with the service rules. Without working in a feeder category, the above proceedings were issued. The Local Fund Audit Department already instructed the Corporation to recover the excess salary paid to them and the Corporation is taking appropriate steps to recover the same. Since the posting of the petitioners as Conservancy Inspector itself is not in terms with the service rules, a show cause notice, dated 02.11.2018, was issued to all the petitioners,



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seeking their explanation for reverting them to their original post as admitted in para 3 of the affidavit of the petitioners. The orders made in W.P.(MD)No.6403 of 2006 is no way applicable to the case of the petitioners. The petitioners are claiming the seniority from the date of joining the post of Conservancy Inspector. When their posting as Conservancy Inspector itself, is not in tune with Service Rules, the seniority and further promotions based on such posting cannot be accepted. Any posting made against the service rules will not confer any right to the petitioners to claim seniority and promotions based on such postings, hence there is no merit in the claim of the petitioners. Therefore, the 1st respondent prayed to dismiss the writ petition.

5. The private respondents have filed the vacate stay petition, wherein they have stated that the petitioners 1 to 3 are appointed as Record Clerk and petitioners 4 to 23 were appointed as unskilled workers and in the said post they are claiming it as equivalent posts of Record Clerk from 03.07.1996 till 09.03.2001. subsequently they were promoted as Conservancy Inspectors as 03.08.2005. Further stated that on 24.01.2015 the writ petitioners were reverted by the Commissioner on the ground that the Government refused to ratify the illegal promotions granted in favour of the petitioners. The petitioners without fulfilling the required educational and other qualifications in the feeder category



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of Conservancy Inspector, the promotion dated 03.08.2005 was revised to be ratified by the government. After five days i.e. on 29.01.2015 the promotion to the post of Conservancy Inspector was refixed with effect from 01.04.2008, thus claiming they were promoted as Conservancy Inspector from 01.04.2008 in the revised date. The private respondents are directly recruited as Junior Assistants from 10.04.2013 onwards. Some of them were appointed on 06.02.2014 and 17.02.2014. On the date of appointment of the private respondents, the writ petitioners were working as Conservancy Inspectors and thus claiming seniority above the directly recruited Junior Assistant. The contention of the writ petitioners is that as per the service rules, the post of Junior Assistant Cum Typist, Steno Typist, Tax Collectors are categorized as Category 1 to 4. The persons holding the post of Conservancy Inspector are not entitled for promotion to the post of Bill Collector. As per the table of service rules, the post of Junior Assistant cum Typist can be filled up by direct recruitment and from promotion from the holder of Driver, Record Assistant, Head Office Assistant, Conservancy Supervisor. Steno Typist can be filled up by direct recruitment and also transfer of service from post of Junior Assistant Cum Typist. The third category Conservancy Inspector and Tax Collector can be effected by transfer from the holders of Junior Assistant cum Typist. So they claim that Conservancy Inspector and Junior



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Assistant cum Typist are interchangeable posts and by effect of the promotion dated 29.01.2015 wherein the petitioners were given effect of promotion retrospectively From 01.04.2008 onwards. They claim seniority and thus challenge the order of seniority of the Appointing Authority on the sole ground the posts are interchangeable so they are seniority by appointment to the post of Conservative Inspector. The entire petition is filed on the basis of wrong understanding of service rules and also by wrong representation. The repetition is therefore not at all maintainable in law. As per service rules the qualification of the post of Class III is different. All the four category posts are having different qualification and different feeder categories. Only for the purpose of working arrangement they can be posted as interchangeable post and mere holder of the post cannot make them equal without the qualification to the post of Junior Assistant cum Typist. The private respondents are directly recruited Junior Assistant cum Typists with the specialised qualification which is meant for the set post. The writ petitioners are Conservancy Inspectors who have choice of posting by the employer in the post of Junior Assistant, so they cannot claim any equal seniority in the Junior Assistant cum Typist posts. The present promotion to the post of Assistant posts the service rules are very clear. Among the four category of Group III post, the Assistant post can be filled from the holder of Junior Assistant



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cum Typist. The post of Assistant coming within the definition of Group II Category I. The only eligibility among the four category, among Group III category is Junior Assistant cum Typist alone. When the Service Rules is absolutely clear, out of four category in Group III, only Junior Assistant cum Typist is feeder category to the post of Assistant. The writ petitioners were never appointed as Junior Assistant cum Typist, since they are not holding the field category post, they are not eligible for any promotion and thus the Madurai Corporation has already finalised the issue by issuing the impugned proceedings dated 20.09.2018 and the order is perfectly valid under the Service Rules. There are several judgements by the Hon'ble High Court and Hon'ble Supreme Court where it is held that mere interchangeability as work arrangement cannot be treated them equal when the posts are different by their qualification and nature of employment and the qualifications are also different. When the post are different with different qualifications, the Service Rules are very clear that only Junior Assistant cum Typist can be promoted as Assistant. Hence the claim of the writ petitioners that they have been considered as Assistant is perverse and they are not entitled for consideration of both the seniority and promotion to the post of Assistant. Hence, the private respondents pray to dismiss the writ petition.

6. Heard Mr.B.Saravanan, learned Senior Counsel appearing for the



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petitioners in W.P.(MD)No.21896 of 2018, Mr.R.Murali, learned Counsel appearing for respondents 1 and 31 in W.P.(MD)No.21896 of 2018 and Mr.S.Ramsundar Vijayraj, learned Counsel appearing for respondents 4, 6 to 9, 11, 17 to 23 in W.P.(MD)No.21896 of 2018 and perused the records placed before this Court.

7. In order to decide the issue raised in the present writ petition the Service Rules are necessary and hence the relevant portion of the Service Rules is extracted hereunder:

“The Tamil Nadu Municipal Corporations General Subordinate Service Rules 1996 contains the following services:

Class III

GROUP 1

- Category 1 Superintendent*
Category 2 Assistant Revenue Officer
Category 3 Reporter

GROUP II

- Category 1 Assistant*
Category 2 Personal Assistant
Category 3 Accountant

GROUP III

- Category 1 Junior Assistant-Cum-Typist*
Category 2 Steno-Typist
Category 3 Tax Collector



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Category 4 *Conservancy Inspector*

GROUP IV

Category 1 *Record Assistant*

Category 2 *Head Office Assistant*

Category 3 *Conservancy Supervisor*

3. **Appointments:** Appointment to the posts specified in column (1) of the Table below shall be made by the methods specified in the correspondent entries column (2) thereof:-

THE TABLE

Group III Post	Name of Post (1)	Methods of Recruitment (2)	Qualification
Group III Post	Junior Assistant-Cum-Typist	(i) By direct recruitment and (ii) By Promotion from the holders of the Posts in category (1) in Group IV and in categories (1) and (3) in Class V of this Service.	(i) Must have passed Higher Secondary School Examination. (ii) Must have passed English and Tamil Typewriting of Government Technical Examination any one in Senior Grade and the other in Junior Grade and (iii) Must have passed the foundational training prescribed for the corporation service course before completion of Probation.
	Steno-Typist	(I) By direct recruitment or (ii) by transfer from the holders of the posts of Junior Assistant – Cum-Typist	With above qualification and shorthand qualification.
	Conservancy Inspector	By Transfer from the holders of the Post of Junior Assistant – Cum – Typist.	
	Tax Collector	By Transfer from the holders of the post of Junior Assistant-Cum-Typist.	By transfer from the holders of the posts of Junior Assistant-cum-Typist who have completed their probation period and 2) Must have passed in the Revenue test prescribed for the corporation service.



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Group IV Post	Driver	(i) By direct recruitment and (ii) by promotion from the holders of the Posts of Class IV employees Corporation Basic Service.	Passed in 10 th Standard and Driving license.
	Record Assistant	(i) By promotion from the holders of the posts of Class IV Employees of Corporation Basic Service or (ii) By transfer from the holders of the posts of categories (2) and (3) of Group V of this service.	(i) Must have passed X Standard of Matriculation Examination and (ii) Must have worked in the posts of Class IV of Corporation Basic Service period of five years.
	Head of Office Assistant	(i) By transfer for the holders of the posts of categories of (1) and (3) of Group V of this service	By transfer from the holder of the post of Record Assistant.
	Conservancy Supervisor	(i) By Transfer from the holders of the Posts of Categories (1) and (2) of Group V of this service.	

The Tamil Nadu Municipal Corporations Basic Service Rules, 1996.

The service shall consist of the following categories of posts in Class IV, namely;-

Class IV

<i>Category</i>	<i>1</i>	<i>-</i>	<i>Office Assistant</i>
<i>Category</i>	<i>2</i>	<i>-</i>	<i>Watchman</i>
<i>Category</i>	<i>3</i>	<i>-</i>	<i>Cleaner</i>
<i>Category</i>	<i>4</i>	<i>-</i>	<i>Male / Female Attendant</i>
<i>Category</i>	<i>5</i>	<i>-</i>	<i>Unskilled Worker</i>

8. It was brought to the knowledge of this Court that the educational qualification was amended in the service rules through G.O.Ms.No.87 Municipal



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Administration and Water Supply (MD-5) dated 19.08.2020, published in Gazette on 19.08.2020. In the said amendment the post of Junior Assistant and Typist were separated. The qualification for Junior Assistant is

“Must have passed in SSLC or its equivalent with eligibility for admission to Higher Secondary Course of Studies (or) to College Course of Studies”.

The qualification for Typist is

“(a)Must have passed in SSLC or its equivalent with eligibility for admission to Higher Secondary Course of Studies (or) to College Course of Studies

(b) Must have passed English type writing and Tamil type writing of the Government Technical Examination in Senior Grade in anyone of them

(c) Must have passed Computer Office Automation (COA)”

9. The first contention of the respondents is that the Service Rules has not prescribed any qualification for the post of Conservancy Inspector. But for the post of “Junior Assistant cum Typist” post the Service Rules states that the person should possess typewriting, when the petitioners are not possessing the same, then the petitioners cannot be considered for the said post. On perusing the service rules, it is seen that the posts of Junior Assistant cum Typist (category 1), Steno-Typist (category 2), Tax Collector (category 3) and Conservancy Inspector (category 4) comes under Group III. For the posts of Junior Assistant cum Typist



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and Steno-typist the qualification prescribed is pass in HSC, typewriting and foundational course. For Conservancy Inspector no qualification is prescribed. For Tax Collector the qualification prescribed is pass in HSC and pass in Revenue Test. The Rule further states that from the post of Junior Assistant cum Typist, the person may be transferred to the post of Steno Typist or Tax Collector or Conservancy Inspector. After the advent of computer, the necessity to manual typing had been reduced and hence in the amendment the post of Junior Assistant cum Typist had been separated as Junior Assistant and Typist and the qualification for Junior Assistant is only pass in HSC alone. It is only for the Typist the typewriting is necessary. Moreover, from the post of Junior Assistant cum Typist, the persons may be posted to the post of Steno Typist or Tax Collector or Conservancy Inspector by “Transfer”, which means it is interchangeable post. When all the four posts come under Group III, when the qualification prescribed thereunder was same or similar then the said four posts ought to be considered interchangeable post within the same Group III. Since it is interchangeable post, the respondents have posted the petitioners as Conservancy Inspector. After posting the petitioners in the post of Conservancy Inspector and allowed them to work in the said post for the past 10 years with an expectation to get further promotion, now the respondents cannot revert them to lesser grade



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post, since it is against the principle of legitimate expectation. Therefore, this Court is of the considered opinion that the petitioners ought to be retained in the Conservancy Inspector post and draw seniority.

10. The next contention of the Madurai Corporation is that the petitioners must have passed Higher Secondary School Examination. On scrutiny of records it is seen, except four petitioners, others have completed Higher Secondary School Examination, some of them have higher qualification like M.A., M.C.A., etc. However, the Learned Counsel appearing for the petitioners submitted that subsequently the said four petitioners are qualified Higher Secondary School Examination as well and the respondents shall ascertain the said fact after scrutinizing the records. Therefore, this Court is of the considered view if the petitioners are having educational qualification, then the petitioners are eligible for the post and the petitioners should be considered for the said post.

11. The next contention of the official respondent is that the petitioners should have passed Foundational Bhavani Sagar Training course. The said contention of the respondents cannot be accepted since sending the employee to the Foundational Bhavani Sagar training is within the domain of the employer and



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by citing the same the promotion cannot be denied. It is settled proposition that service qualification cannot be an impediment for considering promotion, more so when acquiring service qualification is within the domain of the respondent.

12. The next contention of the respondents is that most of them are not possessing English and Tamil typewriting, hence they cannot be considered for the post of Junior Assistant. The Learned Senior Counsel appearing for the petitioner submitted that some of them have completed the typewriting course and hence the petitioners are entitled to be considered. But the respondents have not taken the typewriting qualification of the petitioners before passing the reversion order. In the counter the respondents have not stated any details regarding the qualification of the petitioners. Further the advent of computer had reduced the necessity of manual typing and by taking this fact into consideration, the respondents have amended the service rules as well. Therefore, this Court is of the considered opinion if the petitioners are possessing typewriting qualification, then the petitioners are entitled to be considered for the post of Typist. If the petitioners are not possessing the typewriting qualification, then the petitioners are eligible for the other posts like Junior Assistant, Tax Collector and Conservancy Inspector.



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13. Further, the petitioners have served in the basic service which is one of the qualifications for considering for promotion to the next level post. Most of the petitioners are having the educational qualification and other qualifications at the time of recruitment or subsequently obtained qualified to the said post. Promotion may not be fundamental right but definitely it is constitutional right. Therefore, the respondents cannot deny promotion to the petitioners.

14. The next contention of the official respondent is that the office of the official respondents had committed a mistake and this mistake cannot be carried on, hence they are bound to rectify the mistakes. Such plea cannot be accepted. The respondents before placing the petitioners to such post, the official respondent ought to have ascertained all these qualifications. Having placed the petitioners in the post of Conservancy Inspector for the past 10 years, now the respondents cannot deny the same by citing service rules, more so when the petitioners have served for more than 10 years. Having placed the petitioners in the said post, now the official respondent cannot revert and say that the petitioners are not possessing such qualification and mistakenly such an order was passed. Further as stated supra the petitioners are having qualification but the respondents have not taken the same for consideration. It is seen the respondents are



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continuing with this mistake for all these years, which means the service rules were not implemented at all. If the respondents intended to rectify the mistake, then it can be for the future alone and not by reverting. Therefore, this Court is directing the respondent to rectify the mistake for future postings alone.

15. Further this Court is of the considered opinion that when the petitioners have served in the post of Conservancy Inspector for more than 10 years, if there is any violation of any service rule, then the petitioners are entitled for ratification. Therefore, the respondent corporation in both the writ petitions are directed to grant seniority for the persons who are having educational qualification, typewriting qualification and the foundation training qualification. Wherever the petitioners are not possessing such qualifications, they can obtain ratification from the Government. The Government shall grant ratification positively rather than taking a different view, based on their ten years-service in the said posts. Based on the aforesaid direction the respondents shall redraw seniority and publish the same with consequential promotion. In future, the Corporation shall strictly adhere to the Service Rules prescribed thereunder.

16. The contention of the direct recruits is that they were appointed in the



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year 2013 but the petitioners were appointed in the year 2015 only, therefore, they should be granted priority than the petitioners cannot be sustained. Since the respondents have fixed the effective date from 2008 onwards, then the seniority of the year 2008 ought to be granted to the petitioners.

17. For the reasons stated supra the impugned order cannot be sustained and hence the impugned order challenged in W.P.(MD)No. 21896 of 2018 is quashed and consequently the 1st respondent shall place the petitioners in appropriate seniority and shall obtain ratification where ever it is necessary and the writ petition is allowed in above terms.

18. As far as the impugned order challenged in W.P.(MD)No.857 of 2019 is concerned if the persons stated in the impugned order are having qualifications, then the impugned order ought to be sustained. Therefore, the respondent shall ascertain the qualifications of the persons stated thereunder and if the persons are having qualification, then the impugned order shall be sustained. If the persons need any ratification, then the same also may be considered. With this observation, W.P.(MD)No.857 of 2019 is disposed of.



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19. No costs. Consequently, connected miscellaneous petitions are closed.

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Internet : Yes
NCC : Yes / No

08.06.2023

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To

The Commissioner,
Madurai Corporation,
Madurai.



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S.SRIMATHY, J

Tmg

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