



W.P.(MD).No.22097 of 2019

WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 19.01.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD).No.22097 of 2019**

**and**

**W.M.P(MD)No.18877 of 2019**

R. Anguselvan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,  
Represented by its Secretary,  
Department of Higher Education,  
Fort St. George, Chennai – 600 009.
- 2.The Director of Collegiate Education,  
College Road, Chennai – 600 006.
- 3.The Joint Director of Collegiate Education,  
Madurai, Madurai District – 625 020.
- 4.A.Murugabalaji
- 5.P.Balagandhi Rani
- 6.K.Chinnaperumal
- 7.A.Thirunavukarasu
- 8.A.Annie Rupa
- 9.N.Shanthi



**W.P.(MD).No.22097 of 2019**

10.N.Shanmugavalli

11.C.Kalaiselvan

12.N.Saravanan

13.A.Vishwanathan

14.V.Yuvaraj

15.N.H.Senthil Kumar

16.T.Shanmuganathan

17.A.Sumathi

18.K.Seenivasan

19.K.Kumaresan

20.A.Napolean

21.K.Kumar

22.R.Muralidharan

23.P.Palanisamy

24.A.Senthil Kumar

25.S.Senthilkumar

... Respondents

**PRAYER** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Seniority List issued by the 2<sup>nd</sup> respondent vide his proceedings in Ma.Mu.No.19083/B3/2017 dated 06/06/2017 and the



**W.P.(MD).No.22097 of 2019**

consequential proceedings issued by the 2<sup>nd</sup> respondent in proceedings in Na.Ka.No.17896/B3/2019 dated 22/08/2019 containing a list of 28 Superintendents, and quash the same in so far as placing the respondents 4 to 25 at Serial Nos.33, 35, 36, 40, 42, 49, 52, 53, 55, 58, 59, 60, 62, 63, 66, 67, 68, 69, 70, 71, 72, 73 respectively in the Seniority list dated 06/06/2017 and including the names of respondents 4 to 7 & 9 to 12 herein at Serial Nos.6, 8, 9, 12, 19, 22, 23, 25, 28 respectively in the impugned proceedings dated 22.08.2019 and further direct the 2<sup>nd</sup> respondent herein to redraw the Seniority List forthwith and consequently consider the petitioner for promotion to the post of Bursar with all attendant benefits.

For Petitioner : Mr.T.Cibi Chakraborty

For R1 - R3 : Mr.D.Sadiq Raja  
Additional Government Pleader

For R4, R7-R18,  
R21, R23-R25 : No Appearance

### **ORDER**

This petition has been filed challenging the seniority list issued by the 2<sup>nd</sup> respondent in proceedings Ma.Mu.No.19083/B3/2017, dated 06.06.2017 with a consequential relief.



W.P.(MD).No.22097 of 2019

WEB COPY

2. The petitioner is working as a Superintendent in the Joint Director of Collegiate Education, Madurai. The petitioner joined the service as Junior Assistant cum Typist through TNPSC recruitment on 28.08.2000 and his service was regularized on 21.03.2001 with effect from 28.08.2000. The petitioner completed probation on 30.08.2002 and also passed the departmental examinations viz., District Office Regulation Test on 31.05.2002 and Accounts Test on 30.05.2005. The petitioner was promoted as Assistant on 29.09.2006 and again promoted as Superintendent on 28.02.2014. The next avenue of promotion is Bursar. The feeder category for promotion to the post of Bursar is the post Superintendent working either in the Department or Government Arts & Science College. A promotion panel was drawn by including the eligible candidates from the feeder category on the basis of seniority list.

3. For the year 2017, the 2<sup>nd</sup> respondent prepared the seniority list and released on 06.06.2017 and invited objections within a period of 15 days. In the said list, the petitioner's name was arrayed at Serial No.77 and was kept below his juniors i.e., below to respondents 4 to 25. This partial modified list was published by modifying the earlier seniority list dated 11.02.2016. On the basis



W.P.(MD).No.22097 of 2019

of partial modification, the petitioner's name is kept below to his juniors. The respondents claimed the said revision was made based on the clarification issued by Government in Letter No.10728/G2/2014-1, dated 12.03.2015. The said letter was not furnished to the petitioner. However, in the said letter, it has been stated that the persons who were sent for Bavanisagar training belatedly could be refixed and placed on par with their juniors. Based on this letter, the 2<sup>nd</sup> respondent Director misconceived and assumed that he is fully empowered to refix the seniority by himself without any order from the State Government. The Director without any order of relaxation from the Government, have arbitrarily refixed the seniority of those persons without affording any opportunity to the seniors including the petitioner. The respondents 4 to 25 were originally appointed on various dates and their appointments were regularized only after the petitioner's appointment was regularized. Further, they attended Bavanisagar training after the petitioner's completion of the said training. The petitioner submitted objections to the impugned seniority list. However, there was no response from the 2<sup>nd</sup> respondent. After 2 years without releasing the final seniority list on the basis of impugned seniority list, dated 06.06.2017, the 2<sup>nd</sup> respondent vide, proceedings dated 20.05.2019 sought remarks in the prescribed pro-forma from the Regional Joint Directorate



W.P.(MD).No.22097 of 2019

Offices and the Government Arts and Science Colleges regarding the list of 46 Superintendents working in their respective offices. The petitioner immediately objected to the said list, wherein the respondents 4 to 25 were kept above the petitioner. On 23.05.2019, again the respondents issued a fresh list of Superintendents, whereby the persons who were promoted to the post of Superintendents from 2013 to 2016 to the Regional Joint Directorate Offices and Government Arts and Science Colleges and sought remarks in the prescribed proforma. However, the 2<sup>nd</sup> respondent through the impugned proceedings, instructed the Regional Joint Directorate Offices to send their remarks on 28 Superintendents in the prescribed proforma. The names of the respondents 4 to 7 and 9 to 12 were placed at Serial Nos. 6, 8, 9, 12, 19, 22, 23, 25 and 28 respectively in the list enclosed along with other similarly placed persons and represented before the 2<sup>nd</sup> respondent in person and explaining the mistake that has crept in the list, but there was no response. Hence, the petitioner along with similarly placed persons submitted a representation, dated 04.09.2009 and the respondents did not pass any orders till now. Since the respondent was on the verge of drawing the promotional to the post of Bursar, hence the present petition challenging the said seniority list.



W.P.(MD).No.22097 of 2019

WEB COPY

4. The respondents have filed counter stating the seniority list was published in the year 2016 itself. The petitioner has submitted a representation after a delay of 3 years, hence it is a belated objections and the same cannot be considered. Moreover, the regularization orders to some of the respondents were issued belatedly, but it was given the effective date from their original appointment. The respondents further stated that the respondents 4 to 22 have passed the requisite examinations for the promotion as Assistants before the petitioner had passed the said examinations and the respondents 23 to 25 have been appointed on compassionate ground before the petitioner has joined as Junior Assistant. Therefore, the private respondents have been placed rightly before the petitioner in the seniority list. The respondents further submitted because of the disputes in issuing the seniority lists, the respondents had formed a committee to determine the seniority list for the post of Bursar and based on the findings of the committee the impugned seniority list was revised. It is stated that based on the Government's letter, dated 12.03.2015, the entire seniority list was redrawn and the persons who are eligible were placed at a right place based on the committee's report. Hence, the respondents prayed to reject the claim of the petitioner.



W.P.(MD).No.22097 of 2019

WEB COPY

5. Heard Mr.T.Cibi Chakraborty, learned counsel for the petitioner and Mr.D.Sadiq Raja, learned Additional Government Pleader and perused the records.

6. The petitioner is challenging the seniority of respondents 4 to 25, except compassionate appointment appointees. In other words, the petitioner has challenged the seniority fixed for the respondents who have been appointed through TNPSC alone. As far as the compassionate appointees are concerned, the petitioner has not challenged their appointments, since they were regularized belatedly, but giving effect from the date of original appointment.

7. The learned counsel appearing for the petitioner has brought to the knowledge of this Court by drawing attention on 11<sup>th</sup> respondent, namely Kalaiselvan. The said Kalaiselvan was placed all these years as junior below the petitioner from 2004 onwards. However, there was a revision of seniority list and the impugned seniority list, dated 06.06.2017 was published, wherein



W.P.(MD).No.22097 of 2019

the petitioner's junior was placed above the petitioner. Hence, the petitioner is aggrieved by the revised seniority list.

8. The contention of the official respondents is that the said Kalaiselvan and other similarly placed persons had sought to revise the seniority and hence after considering the same, the seniority was revised. The further contention of the respondents is that the petitioner has claimed to revise the seniority belatedly. This plea of the official respondents cannot be accepted. If this plea of the official respondents is taken into account, then the same plea of belatedness is applicable to Kalaiselvan and others also who had challenged it after delay of so many years. Since the said Kalaiselvan had completed the test in the year 2004, he was promoted as Assistant in the year 2006, then as Superintendent in the year 2014. The said Kalaiselvan having accepted the promotion to the post of Assistant, then from the post of Assistant to the post of Superintendent and was keeping silent for the past 17 years, cannot claim to revise the seniority list after promotion to the post of Superintendent.



W.P.(MD).No.22097 of 2019

WEB COPY

9. The respondents claim that the main reason for revision is that the said Kalaiselvan has passed the examination prior to the petitioner. The said Kalaiselvan has passed the account test in May 2004. The petitioner has passed the said account test on 30.05.2005. The learned Counsel for the petitioner submitted that any pass in the test will be entitled to increment as per the Subordinate Service Rules, that will not be a determining factor to fix the seniority.

10. Moreover the respondents have relied on the Government Letter No. 10728 / G2 / 2014-1 dated 12.03.2015, wherein it is stated that the individuals who have been sent to Bhavani Sagar Training belatedly due to administrative delay, shall be given a revision in the seniority list and promotion can be given by the Director of Collegiate Education. The learned Counsel appearing for the petitioner submitted that the said letter is only a general guideline. The said exercise shall be carried out only if the Government passes an order relaxing the rule and declares that they have successfully completed their probation. But the 2<sup>nd</sup> respondent wrongly assumed that he is fully empowered to refix the seniority by himself without any government order from the Government.



W.P.(MD).No.22097 of 2019

Admittedly in the present case, it is seen that the government had not passed any such order relaxing the rules to the private respondents. Moreover, relaxation is not automatic. Therefore, this Court is of the considered opinion that the seniority cannot be revised based on the said government letter without relaxation order from the government for each individual.

11. Curiously it is seen from the counter that the respondents claim to have constituted a committee to determine the seniority list for preparation of Bursar Panel. The finding of the committee is to follow the Government Letter No.10728 / G2 / 2014-1 dated 12.03.2015 and the relevant portion is extracted hereunder:

*“After awarding of Superintendent promotion during 2013 and 2014, orders have been issued by the Government vide Government Letter No.10728 / G2 / 2014-1 dated 12.03.2015 regarding the revision of seniority. Based on the government letter a seniority list was issued vide Director of Collegiate Education proceedings R.C.No. 65243/B1/2013 dated 11.02.2016. And therefore orders issued in 11.02.2016 may be taken and seniority list may be issued for Bursar Panel”*

Following the said recommendation, the respondents have stated that the impugned revised seniority list was issued. It is unknown how the committee is



W.P.(MD).No.22097 of 2019

empowered to decide and recommend to revise the seniority list. More so when the government alone is empowered to grant relaxation of any Rule. In the present case admittedly, the government has not passed any order of relaxation. It is pertinent to note one more factor that the private respondents had accepted the promotion to the post of Assistant and Superintendent without revising the seniority. In such circumstances, without obtaining any relaxation from the government and without affording any opportunity to the stake holders, the respondents cannot pass any order of revision in the seniority list. Therefore, the impugned seniority list dated 06.06.2017 and the consequential proceedings dated 22.08.2019 are liable to be quashed and hence, it is quashed.

12. The learned counsel appearing for the petitioner brought to the notice of this Court that in 2022, the said Kalaiselvan and others were granted promotion through G.O.Ms.No.192, Higher Education Department, dated 26.09.2022. This Court has already passed an interim order that any promotion is subject to the result of this writ petition. Since this Court has quashed the impugned seniority list, the petitioner is entitled to consequential relief.



**W.P.(MD).No.22097 of 2019**

WEB COPY

13. This Court is inclined to pass the following order:

(i) The impugned seniority list 06.06.2017 and the consequential proceedings dated 22.08.2019 are quashed.

(ii) The 2<sup>nd</sup> respondent is directed to retain the original seniority list dated 11.02.2016

(iii) The 2<sup>nd</sup> respondent is directed to grant notional promotion to the petitioner as Bursar from the date, when the petitioner's immediate junior was promoted. The petitioner is entitled to continuity of service and monetary benefits in the promoted post as Bursar.

14. With these directions, this Writ Petition stands allowed. No costs.

Consequently, connected Miscellaneous Petition is closed.

**19.01.2023**

Index : Yes / No  
Internet : Yes/ No

gbg



WEB COPY



W.P.(MD).No.22097 of 2019

To

- 1.The Secretary,  
The State of Tamil Nadu,  
Department of Higher Education,  
Fort St. George, Chennai – 600 009.
- 2.The Director of Collegiate Education,  
College Road, Chennai – 600 006.
- 3.The Joint Director of Collegiate Education,  
Madurai, Madurai District – 625 020.



WEB COPY



**W.P.(MD).No.22097 of 2019**

**S.SRIMATHY, J.**

gbg

**W.P.(MD).No.22097 of 2019**

**19.01.2023**