IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.Nos.680 & 6559 of 2023
and WMP Nos.617,619,6633 & 6634 of 2023

R.Ganesan
Senior Revenue Inspector
O/o. Special Tahsildar
Highways Land Acquisition Unit
Coimbatore District. ... Petitioner
in WP.No.680/2023

-Vs-

1.Government of Tamil Nadu
Rep.by the Principal Secretary/
Commissioner of Revenue Administration
Revenue Administration and Disaster
Management Department
Chepauk, Chennai-600 005.

2.The District Collector
Collectorate
Coimbatore District.

3.District Revenue Officer
Collectorate
Coimbatore. ... Respondents
in WP.No.680/2023

Prayer in W.P.No.680/2023 **:** Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings bearing No.Na.Ka.7450/2022/A3 dt.31.03.2022 issued by the 3rd respondent to the extent it places the petitioner at Seniority No.166 read with the proceedings of the 2nd respondent bearing ROC NO.21299/2018/A2 dt.31.05.2022 insofar as it rejects the request of the petitioner to place him in his original seniority, quash the same as ultravires and illegal and consequently direct the respondents to fix the original seniority of the petitioner at Sl.No.37 in Coimbatore District based on merit/rank obtained by the petitioner in the post of Revenue Assistant (redesignated as 'Senior Revenue Inspector') In the Combined Subordinate Services Examination – I (CSSE-I) 2009-2011 held by TNPSC as per Rule 20(a)(i) of the Tamilnadu Ministerial Service Rules and promote him as Deputy Tahsildar and Tahsildar w.e.f. 2018 and 2022 respectively with all other consequent benefits such as arrears of pay.

E.Balachandar
Senior Revenue Inspector
Revenue Divisional Office
Madhuranthakam
Chengalpet District. ... Petitioner
in WP.No.6559/2023

-Vs-

1.Government of Tamil Nadu
Rep.by the Principal Secretary/
Commissioner of Revenue Administration
Revenue Administration and Disaster
Management Department
Chepauk, Chennai-600 005.

2.The District Collector
Collectorate
Kancheepuram District.

3.The District Collector
Collectorate
Chengalpet District.

4.District Revenue Officer
Collectorate, Kancheepuram.

5.District Revenue Officer
Collectorate, Chengalpet. ... Respondents
in WP.No.680/2023

Prayer in w.P.No.6559/2023 **:** Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings bearing No.13573/2021/A2 dt.26.03.2022 on the file of the 4th respondent, to the extent it places the petitioner at Seniority No.191 read with the order bearing No.Na.Ka.COLKPM/4635/2022/A2 dt.29.12.2022 issued by the 2nd respondent, quash the same as ultravires and illegal and consequently direct the respondents to fix the original seniority of the petitioner at S.No.91 based on merit/rank obtained by the petitioner in the post of Revenue Assistant in Kancheepuram District in the Combined Subordinate Services Examination – I (CSSE-I) 2009-2011 held by TNPSC as per Rule 20(a)(i) of the Tamilnadu Ministerial Service Rules and promote him as Deputy Tahsildar and Tahsildar w.e.f. 2018 with all other consequential benefits including arrears of pay.

For Petitioner (Both WPs)	:	Mrs.M.N.Sumathy
For Respondents (Both WPs)	:	Mr.P.Kumaresan Additional Advocate General Asst.by: Mrs.V.Yamunadevi Special Government Pleader and Mr.G.Velu Additional Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the proceedings of the 3rd respondent/4th respondent dated 31.03.2022 and 26.03.2022 respectively insofar as placing the seniority of the petitioners at Sl.No.166 and 191 respectively and for a consequential direction to the respondents to fix the original seniority of the petitioners at Sl.No.136 and 91 based on the merit-rank obtained by the petitioners in the post of Revenue Assistant [redesignated as 'Senior Revenue Inspector') in the Combined Subordinate Service Examination-I 2009-2011 held by TNPSC as per Rule 20(a)(i) of the Tamil Nadu Ministerial Service Rules and consequently promote the petitioners as Deputy Tahsildars with all consequential service and monetary benefits.

2.The case of the petitioners is that they were initially appointed as a Revenue Assistant (redesignated as Senior Revenue Inspector) in Kancheepuram District (insofar as WP.No.680 of 2023)/Coimbatore District (insofar as WP.No.6559 of 2023) after they were selected through CSSE – 2009 - 2011 held by TNPSC. At the time when the petitioners were appointed, the Department was following the roster wise seniority as per the list issued by TNPSC.

3.The further case of the petitioners is that in the year 2014/2015, the petitioners applied for mutual transfer within the Department and they were transferred to Coimbatore District/Kancheepuram District. The transfer was made with a condition that the petitioners will have to forgo their seniority in the post.

4.The petitioner in WP.No.680 of 2023 was placed in Serial No.136 and the petitioner in WP.No.6559 of 2023 was placed in Serial No.91 by the 3rd respondent/4th respondent. The provisions of the relevant Act was challenged and the case went up to the Apex Court and the Apex Court rendered a ruling that the promotion can be only based on merits.

5.In the light of the judgment of the Apex Court, the 3rd respondent/4th respondent issued the inter se seniority list dated 31.03.2022/26.03.2022 in which the petitioners were placed at Sl.Nos.166/191 respectively. Consequent upon the same, the Panel was redrawn for Deputy Tahsildars and the names of the petitioners did not find place. The petitioners submitted their objections to the seniority list and the redrawn Panel. The objections were rejected and aggrieved by the same, these writ petitions have been filed before this Court.

6.The respondents have filed separate counter affidavits in these writ petitions. The main ground that has been raised by the respondents is that the petitioners at the time of mutual transfer had expressed their consent for the same and accordingly in the year 2015, their seniority were revised as per Rule 20(b)(i) of the Tamil Nadu Ministerial Service Rules. As a consequence, it had its cascading effect when the Panel was redrawn in the year 2022 pursuant to the judgment of the Apex Court. Therefore, it has been stated in the counter affidavit that the petitioners cannot be allowed to retract from the original position and now seek for their mutual transfer to be brought under Rule 20(a) (i) of the Rules. Accordingly, the respondents have sought for the dismissal of these writ petitions.

7.Heard Mrs.M.N.Sumathy, learned counsel for the petitioners and Mr.P.Kumaresan, learned Additional Advocate General for the respondents.

8.The short issue that arises for consideration in these writ petitions is as to whether the rejection order passed by the 1st respondent/2nd respondent rejecting the claim made by the petitioners to redraw the Panel and the seniority list, is liable to be interfered by this Court.

9.There is no dispute with regard to the fact that promotions given based on communal rotation by fixing roster points came to an end after the judgment of the Apex Court and the Apex Court specifically directed the seniority list to be prepared purely based on merits for promotion.

10.The petitioners had sought for mutual transfer during the year 2015 and accordingly, the request made by the petitioners was acceded. While doing so, the mutual transfer was effected in accordance with Rule 20(b)(i) of the Tamil Nadu Ministerial Service Rules. The petitioners never raised any objections during the relevant point of time since they never anticipated that their revision of seniority will have an effect in future considering the fact that communal rotation was in vogue. Pursuant to the judgment of the Apex Court, the Panel was redrawn and the seniority list was prepared purely based on merits. At this point of time, the seniority of the petitioner's came down to Sl.No166/191. It is only then the petitioners realised that this situation would not have arisen if the mutual transfer had taken place under Rule 20(a)(i).

11.Even when these writ petitions were filed, the petitioners never choose to challenge the mutual transfer order that was passed in the year 2015. After the counter affidavit was filed and the matter was argued and this Court expressed its view that the petitioners cannot complain regarding the seniority list prepared in the year 2022 without challenging the transfer order that was passed in the year 2015, the learned counsel for the petitioners submitted that the petitioners must be granted leave to amend the prayer and they must be permitted to challenge the transfer of the year 2015.

12.The above request made by the learned counsel for the petitioners is liable to be rejected on two grounds. The first ground is that an order passed in the year 2015, cannot be challenged based on some happenings at a future point of time where the earlier order had a cascading effect while preparing the seniority list at such future point of time. The second ground on which the request made by the petitioners has to be rejected is that amendments will never be permitted based on some observations made by the Court in the course of final hearing. The petitioners have chosen to file the writ petition by challenging only the proceedings of the year 2022. Thereafter, realizing that challenging may not be sustained without challenging the transfer order of the year 2015, the petitioners cannot be allowed to make such a request in the year 2024 after 9 years.

13.In the light of the above discussion, the petitioners having accepted the mutual transfer order in the year 2015 issued under Rule 20(b) (i) of the Tamil Nadu Ministerial Service Rules, cannot be permitted to question the same on the ground that it should have been brought within the Rule 20 (a)(i) of the Rules. In the light of this finding, the subsequent proceedings of the year 2022 is only a consequence while fixing the seniority list pursuant to the judgment of the Apex Court. The petitioners have been correctly fixed in the seniority list based on their seniority in the year 2015. There is no ground to interfere with the same.

14.In the result, both the writ petitions stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

12.09.2024

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order : Yes /No
KP

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N.ANAND VENKATESH. J.,
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