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W.P.Nos.1941 of 2024 and etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**W.P.Nos.1941, 1949, 1954, 3070, 3073, 3522 and 4015 of 2024
and W.M.P.Nos.2052, 2065, 2070, 3358, 3361, 3780, 4334, 13002, 21104,
12413, 21108, 12416, 20380, 18259, 21109, 18266, 12421, 21110, 18761 and
21111 of 2024**

W.P.No.1941 of 2024:-

Lavanya Jeyasudha

...Petitioner

-Vs-

1. The Government of Tamil Nadu,
Department of Agriculture,
represented by its Agricultural Production Commissioner
and Principal Secretary to Government,
Fort St.George,
Chennai – 9.
2. The Commissioner of Agriculture,
Ezhilagam, Chepauk,
Chennai -5.
3. The Joint Director of Agriculture,
O/o Joint Director Agriculture,
G.C.T.Post, Thadagam Road,
Coimbatore – 13.
4. The Director,
Commission of Schedule Tribes,
2nd Floor, Block No.5,
Shastri Bhavan, Chennai – 6.
5. G.Natarajan



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6. Selvarani

7. S.Mathiyazhagan

(R5 to R7 impleaded vide order
dated 21.06.2024 made in
W.M.P.No.16431 of 2024
in W.P.No.1941 of 2024)

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, call for the records from the second respondent pertaining to the impugned proceedings No.AOS1/78565/ 2023-1 dated 10.07.2023 and quash the same and reiterate the petitioner as Assistant Director of Agriculture.

In W.P.Nos.1941, 1949, 1954, 3070, 3073, 3522 of 2024

For Petitioners : Mr.P.Vijendran

For R1 to R4 : Mr.R.Neelakandan
Additional Advocate General
assisted by
Mr.C.Jayaprakash
Government Advocate

For R5 to R7 : Mr.N.Subramanian

In W.P.No. 4015 of 2024

For Petitioner : Mr.P.Vijendran

For R1 to R4 : Mr.R.Neelakandan
Additional Advocate General
assisted by
Mr.C.Jayaprakash
Government Advocate

For R5 to R10 : Mr.Akshai Sajin Kumar

For R11 to R13 : Mr.N.Subramanian

COMMON ORDER



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These writ petitions have been filed challenging the proceedings passed by the second respondent in proceedings No.AOS1/78565/ 2023-1 dated 10.07.2023.

2. The issues involved in all the writ petitions are one and the same and therefore, this Court is inclined to pass common order.

3. Heard the learned counsel on either side and perused the materials available on record.

4. All the petitioners had appeared in the examination conducted by the Tamil Nadu Public Service Commission and they were appointed in their respective posts. All the petitioners were promoted as Assistant Director of Agriculture. While being so, the proceedings No.AOS1/78565/ 2023-1 dated 10.07.2023 was passed, thereby revised the seniority list. Hence, these writ petitions.

5. This Court had already dealt with the similar issue in a batch of writ petitions in W.P.Nos.22411 of 2023 and 747 & 1858 of 2024. This Court, by an



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order dated 05.03.2024, in W.P.Nos.22411 of 2023 and 747 & 1858 of 2024

observed as follows:-

“ 11. In the year 2003, the Hon'ble Supreme Court of India has passed the judgment in the case of **Bimlesh Tanwar Vs. State of Haryana** reported in (2003) 5 SCC 604, thereby laying down law that seniority would be on the basis of merit and not on the basis of roster. The Hon'ble Division Bench of this Court also in the case of **Santosh Kumar & ors Vs Tamil Nadu Public Service Commission & ors** reported in 2015 SCC Online Mad 362, held that fixation of seniority based on roster points is not correct and directed the official respondents to take the rank assigned by the Tamil Nadu Public Service Commission to the selectees. Aggrieved by the same the Tamil Nadu Public Service Commission preferred Special Leave Petition and the same was dismissed.

12. Further the Hon'ble Division Bench of this Court by an order dated 15.11.2019 in W.P.No.998 of 2017 etc. batch, has ordered that Section 1(2), 40 and 70 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 are declared as ultra vires and unconstitutional and directed to redo the exercise of fixation of seniority. Aggrieved by the same an appeal filed before the Hon'ble Supreme Court of India in S.L.A(C)Nos. 2861-2876 of 2020 and the same was also dismissed. Thereafter, contempt petition was filed before the Hon'ble Supreme Court of India in Contempt Petition (C) Diary No.6415 of 2021 and the Hon'ble Supreme Court of India by an order dated 18.04.2023 directed the State government to complete the exercise of finalizing the seniority list selection processes conducted after 10.03.2003, on the basis of the merit as determined by the Tamil Nadu Public Service Commission in the selection process. It is further made clear that if any list is finalized in the case of selection held prior to 2003, giving benefit to the persons selected as per their seniority or as per merit, the same shall also not to be disturbed.

13. It is relevant to extract the order dated 18.04.2023



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passed by the Hon'ble Supreme Court of India in Contempt Petition (C) Diary No.6415 of 2021, as follows :-

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“15. As already discussed hereinabove, the Division Bench in the first judgment has clearly held that the cases before it were not individualistic in nature to be decided on the basis of facts arising in each case. The cases arose only on one principle i.e. As to whether seniority should be as per the merit reckoned by the TNPSC or as per roster point. The Division Bench clearly held that the seniority should be on the basis of the merit reckoned by the TNPSC and not as per the roster point. This Court while dismissing the Special Leave Petition affirmed the view of the High Court holding that after the judgment of this Court was pronounced in Bimlesh Tanwar (supra), the principle governing the determination of seniority was only on the basis of merit list of selection and not as per the basis of roster point.

16. We are of the view that though it can be said that even after the judgment of the Indira Sawhney (supra) on 16th November, 1992, the State could not have prepared the merit list on the basis of roster point, we find that it will not be appropriate to reopen the issues from as early as 1992. We find that in any case, once the law was pronounced by this Court specifically in the case of Bimlesh Tanwar (supra), the State was bound to follow the same.

17. We, therefore, though are not inclined to disturb the seniority lists which are finalized prior to 10th March, 2003 wherein the benefit 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 be 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.””

6. In adherence to the order passed by the Hon'ble Supreme Court of

India, the revised seniority list was published by the second respondent in



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respect of Agricultural Officer (Extension) included in Tamil Nadu Agricultural Extension services recruited for the year 2007-2008 have been revised on the basis of merit. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent and these writ petitions are devoid of merits and are liable to be dismissed.

7. Accordingly, these writ petitions stand dismissed. Consequently, connected Miscellaneous petitions are closed. No costs.

15.07.2024

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order

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To

1. The Agricultural Production Commissioner
and Principal Secretary to Government,
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G.K.ILANTHIRAIYAN. J.

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