



W.P.No.23901 and 24654 of 2008, 7075 of 2010 and 23534 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.11.2024

Pronounced on : 29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.23901 and 24654 of 2008, 7075 of 2010 and 23534 of 2015

and

M.P.Nos.1 and 2 of 2008 and 1 and 2 of 2015

W.P.No.23901 of 2008

J.Bala Srinivasan

... Petitioner

Vs.

The Secretary,
Tamil Nadu Legislative Assembly Secretariat,
Chennai – 9.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent herein to forthwith consider the name of the petitioner herein for promotion to the post of Assistant Section Officer in accordance with rules and forbear the respondent herein from promoting the Assistants holding the post temporarily under Rule 17(a)(i) of the Tamil Nadu Legislative Assembly Secretariat Service Rules and yet to commence their probation in the post of Assistant to the post of Assistant Section Officer.

For Petitioner

: Mr.L.Chandrakumar

For Respondent

: Mr.R.Neelakandan,

Additional Advocate General

assisted by Mr.C.Selvaraj,

Additional Government Pleader

W.P.No.24654 of 2008

J.Bala Srinivasan

... Petitioner



Vs.

1. The Secretary,
Tamil Nadu Legislative Assembly Secretariat,
Chennai – 9.

2. N.S.Gokulakrishnan

3. M.Devnathan

4. K.N.Valarvendan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in S.O.Ms.No.198, Legislative Assembly Secretariat dated 29.10.2007, the Office order No.2209/ 2007LAS (O.P-I) dated 31.12.2007 and the letter No. 17028/2008-1, LAS (O.P-I) dated 10.9.2008 on the file of the 1st respondent herein and quash the same and consequently direct the 1st respondent herein to forthwith fix the inter se seniority of directly recruited Assistants and others appointed by promotion within in the respective quota and then consider the name of the petitioner herein for regular promotion to the post of Assistant Section Officer in accordance the rules.

For Petitioner
For R1

: Mr.L.Chandrakumar

: Mr.R.Neelakandan,

Additional Advocate General

assisted by Mr.C.Selvaraj,

Additional Government Pleader

For R2 to R4

: Mr.A.E.Ravichandran

W.P.No.7075 of 2010

J.Bala Srinivasan

... Petitioner

Vs.

1. The Secretary,
Tamil Nadu Legislative Assembly Secretariat,



Chennai – 9.

2. K.Muralidharan

3. R.Balaji

4. A.Baskaran

5. R.Murali

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent herein in S.O.Ms.No.15 Legislative Assembly Secretariat dated 03.02.2010 and his Office Order No.219/2010, TNLAS (O.P Sec-1) dated 10.02.2010 and quash the same and directing the 1st respondent herein to forthwith replace the respondents 2 to 5 herein from the post of Assistant Section Officer with qualified candidates to hold the said post in accordance with Rules 6, 8-b, 9 and 17(b) of the Tamil Nadu Legislative Assembly Secretariat Service Rules.

For Petitioner
For R1

: Mr.L.Chandrakumar
: Mr.R.Neelakandan,
Additional Advocate General
assisted by Mr.C.Selvaraj,
Additional Government Pleader
: Mr.A.E.Ravichandran

For R2 to R5

W.P.No.23534 of 2015

J.Bala Srinivasan

... Petitioner

Vs.

1. The Secretary,
Tamil Nadu Legislative Assembly Secretariat,
Chennai – 9.



2. N.S.Gokulakrishnan

3. K.N.Valarvendan

4. K.Muralidharan

5. R.Balaji

6. A.Baskaran

7. R.Murali

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records relating Office Order No.1831/2011, LAS/OP-1 dated 15.12.2011 on the file of the 1st respondent herein and quash the same and consequently direct the 1st respondent herein to forthwith finalize the seniority of the petitioner herein and respondents 2 to 7 herein in the post of Assistant, Assistant Section Officer and then Section Officer and consider the name of the petitioner herein for inclusion in the panel of Section Officer eligible for promotion as Under Secretary for the year 2015-16 in accordance with law.

For Petitioner	: Mr.L.Chandrakumar
For R1	: Mr.R.Neelakandan, Additional Advocate General assisted by Mr.C.Selvaraj, Additional Government Pleader
For R3, R4 & R6	: Mr.A.E.Ravichandran

COMMON ORDER

All these four writ petitions are at the instance of the same petitioner and the issue that needs to be decided by this court is also one and the same. Once that



issue is decided, the result of all the writ petitions would automatically follow.

Hence, all the matters were heard together and are being disposed by this common order.

2. For the sake of convenience, the parties are referred to, as they are arrayed in W.P.No.23534 of 2015.

3. The petitioner herein was appointed as 'Assistant' in the Tamil Nadu Legislative Assembly Secretariat Service by an order dated 05.10.2007 and accordingly, the petitioner joined in the said post on 18.10.2007. The post of 'Assistant' is included in Category 6 of Class II of the Tamil Nadu Legislative Assembly Secretariat Service. The said post can be filled up by different modes viz., direct recruitment, by promotion from Category 8 (Typists including Tamil Typist of Class II), from Categories 2 and 3 (Record Assistants and Record Keeper respectively of Clause III) and thirdly, by promotion from Category 4 of Class III and Categories 3 and 4 (Office Assistants and Chowikdars respectively of Class IV) of the services in the ratio of 3:1:2.

4. The subject matter of these writ petitions is with regard to seniority



among the petitioner and respondents 2 to 7 and the further promotions that were granted in favour of the respondents 2 to 7 in W.P.No.23534 of 2015 to the post of Assistant Section Officer, Section Officer and so on.

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5. As already noted above, the petitioner herein was appointed by way of direct recruitment through the Tamil Nadu Public Service Commission, whereas the respondents 2 and 7 were appointed under the other modes of appointment provided under Rule 6 of the Rules. The bone of contention of the petitioner to claim seniority over the respondents 2 to 7 is that the method of recruitment, as provided under Rule 6 read with Appendix II of the Service Rules provides for a ratio for appointment among three different categories in the ratio of 3:1:2 and therefore, the seniority list is also required to be prepared in the same ratio, thereby the direct recruit, who is entitled for three posts in a cycle of 6 vacancies should be placed at the top of the seniority list. The further contention is that the respondents 2 to 7 herein were appointed under Rule 17a(i) on temporary basis. But their services were regularized subsequently in the year 2007, by granting them the benefit of retrospective regularization from the date prior to the date of appointment of the petitioner, thereby prejudicially affecting the interest of the



petitioner.

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6. This court, after having heard Mr.L.Chandrakumar, learned counsel appearing for the petitioners and Mr.R.Neelakandan, learned Additional Advocate General, assisted by Mr.C.Selvaraj, learned Additional Government Pleader appearing for the Respondent No.1 and Mr.A.E.Ravichandran, learned counsel for the private respondents, have come to the conclusion that the issue that is required to be decided is in a very narrow compass.

7. The first bone of the contention, by claiming seniority by virtue of ratio provided under Rule 6 read with Appendix II of the Service Rules, is not available for the petitioner to place reliance on the such Rule for the simple reason that the said ratio is provided by way of an amendment for the first time through S.O (Ms) No.50, Legislative Assembly Secretariat, dated 28.02.2001, published in the Tamil Nadu Government Gazette on 21.03.2001. Thus, the said ratio had come into force only with effect from 21.03.2001, whereas the respondents 2 to 7 herein were appointed as Assistant on promotion much prior to the said amendment.

8. Of course, the petitioner herein was appointed subsequent to the said amendment. When the respondents 2 to 7 were appointed, though, under Rule



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17(a)(i), on temporary basis, much prior to the date of the appointment of the petitioner and before the ratio came into force, the question of complying with the said ratio for the purpose of finalizing the *inter-se* seniority among the candidates appointed through direct recruitment and other modes of recruitment does not arise. On this ground alone, the entire basis of the writ petition falls to ground.

9. Then, coming to the other aspect of retrospectively regularizing the services of the respondents 2 to 7 in the post of 'Assistant' is concerned, the said orders of regularization issued on different dates in favour of respondents 2 to 7 i.e., on 29.10.2007, 29.10.2007, 03.02.2010, 03.02.2010, 03.02.2010 and 03.02.2010 respectively and whereas, they were appointed to the post of 'Assistant' on promotion on 14.03.2001, 14.03.2001, 21.03.2001, 21.03.2001, 21.03.2001 and 01.11.2002. By the date of their appointment to the post of 'Assistant', by other modes of recruitment, the petitioner was not even born in the cadre and admittedly, he was appointed to the post of 'Assistant' only on 05.10.2007. In the absence of any challenge to the orders of regularization, issued in favour of the respondents 2 to 7, with effect from the date of their initial appointment, the question of treating the respondents 2 to 7 as the juniors to the petitioner or to subject them to the ratio provided in the Appendix II read with Rule 6 of the Service Rules does not arise. Thus, the entire basis of the claim



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made by the petitioner by placing reliance on the ratio provided in the Appendix II read with Rule 6 of the Service Rules is not available and the petitioner is also *estopped* from making any attempt to deprive the respondents 2 to 7 from deriving the benefit of retrospective regularization by virtue of various orders passed by the competent authority during the years 2007-2010 does not arise, as there is challenge to the said order of regularisation issued in favour of the Respondents 2 to 7. At any rate, the petitioner was not even born in the cadre where the Respondents 2 to 7 were appointed as Assistants, hence he is not entitled to make any claim for seniority over them.

10. In the light of the above, the relief claimed in the respective writ petitions and challenge to the promotion of respondents 2 to 7, initially to the posts of Assistant Section Officer, Section Officer etc., also falls to the ground.

11. In the circumstances, this court does not find any merit in these writ petitions and the same are accordingly dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

29.11.2024

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Index : Yes / No



W.P.No.23901 and 24654 of 2008, 7075 of 2010 and 23534 of 2011



Speaking order / Non-speaking order
Neutral Citation : Yes / No

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To

The Secretary,
Tamil Nadu Legislative Assembly Secretariat,
Chennai – 9.



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W.P.No.23901 and 24654 of 2008, 7075 of 2010 and 23534 of 2015

MUMMINENI SUDHEER KUMAR, J.

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**Pre-Delivery Order made in W.P.No.23901 and
24654 of 2008, 7075 of 2010 and 23534 of 2015**

29.11.2024