



W.P. No.18994 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.18994 of 2015

1.R.Sethuraman

2.M.Sankar

3.Y.Joseph Rajaseelan

4.L.Sankaranarayanan

5.K.Raman

6.K.Rajendran

7.S.Kuthuci Gurusamy

8.A.Lakshmi

9.C.Pitchandi

10.S.Nagarajan

11.K.Parthiban

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep by the Secretary to the Government,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.



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2.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai – 600 035.

3.The Secretary & Personal Officer,
Tamil Nadu Housing Board,
Nandanam, Chennai – 600 035.

4.The Assistant Secretary (Admin),
Tamil Nadu Housing Board,
Nandanam, Chennai – 600 035.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in the impugned Seniority list for the year 2014-15 dated 08.05.2015 and quash the same and direct the respondents to issue a fresh seniority list by abolishing the work charged establishment and promote the petitioners on par with the employees of the regular establishment with all consequential benefits.

For Petitioner	:	Mr.D.Ravindranathan
For R1	:	Mr.R.Vigneshwaran Government Advocate.
For R2 to R4	:	Mr.V.Logesh

ORDER

This writ petition has been filed seeking writ of Mandamus to declare the seniority list dated 08.05.2015 as illegal and arbitrary and to quash the same and also sought for a consequential direction to issue fresh seniority list by abolishing the work charged establishment and promote the petitioners on



par with the employees of regular establishment of the respondent Housing Board.

2. It is the case of the petitioners that they were appointed as Nominal Muster Roll Labour (NMR) in the 2nd respondent Housing Board., and by virtue of G.O.Ms.No.1603, Housing and Urban Development dated 07.12.1988 and G.O.Ms.No.400, Housing and Urban Development dated 02.05.1990, all the petitioners were extended the time scale of pay on completion of five years of service as on 07.12.1988 through proceedings No.E.Spl.2/29564/85-40 dated 15.05.1990 and by virtue of the said proceedings, the petitioners herein are entitled to all the benefits of the staff coming under the regular establishment of the Housing Board, notwithstanding the fact that their pay and allowances are debited to the works. Through the above said proceedings dated 15.05.1990, the service of the petitioners were regularized as Work Assistant and their pay and allowance drawn against the work under the work charged establishment.

3. The claim of the petitioners in this writ petition is that they are entitled to be consider for promotion to the post of Junior Assistant in the



regular establishment of the respondent Board as and when they became eligible. But their cases were not considered from the date on which they became eligible for being promoted to the post of Junior Assistant.

4. In response to the notice issued, the 2nd respondent filed counter affidavit wherein, it is stated that there are no Rules providing for considering the case of the Work Assistant working in work charged establishment for promotion to the post of Junior Assistant in the regular establishment of the respondent Board. However, it is also further stated that the case of the petitioners herein were considered for elevation to the post of Junior Assistant along with 181 persons on 26.06.2012 and as per seniority in the post of Work Assistant, they were elevated to the post of Junior Assistant, Typist, Data Entry Operator and Junior Draughting Officer depending upon their respective additional qualification.

5. Further, it is also stated in the counter affidavit that the cases of the petitioners herein were considered in terms of the seniority in the post of Work Assistant and they were elevated to the post of Junior Assistant and



their cases could not be considered for further promotion for want of vacancies in the higher post due to stagnation in the respective post. They were also granted benefit of selection grade and special grade on completion of 10 and 20 years respectively.

6. The learned counsel appearing for the petitioner also submitted that the petitioners were promoted to the post of Junior Assistant on 26.06.2012. Except the petitioners making claim for treating them as employees of the regular establishment basing upon the proceedings dated 15.05.1990, there is no other material that is placed before this Court. In terms of the said proceedings, especially Condition 4, the same would only extend all the benefits available to the staff working under the regular establishment, but the same does not make them part of the regular establishment. The said Condition 4 reads as under:

“4. These personnel shall have all the benefits of the staff coming under Regular Establishment not-with-standing the fact that their pay and allowances are debited to the works.”



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7. From the above, under no circumstances it can be said that the petitioners herein, who were appointed as Nominal Muster Roll labour and were regularized as Work Assistant on completion of 5 years of service can be said to have become the members of the regular establishment of the respondent Housing Board. In the absence of any basis for the claim of the petitioners to treat them as part of the regular establishment, the claim of the petitioners for being promoted to the post of Junior Assistant from the date on which they acquired requisite qualification to hold the post of Junior Assistant cannot be considered. Even otherwise, as contended by the respondents, the case of the petitioners were considered for elevation to the post of Junior Assistant and they were elevated to the post of Junior Assistant on 26.06.2012. Out of 11 petitioners 7 of them have already attained age of superannuation and retired from service.

8. In the light of above, in the absence of any basis for the claim of the petitioners to be treated as part of regular establishment of the respondent Board, this Court does not see any reason to interfere with the impugned seniority list as the petitioners cannot be treated as part of the said seniority list. Further, the impugned seniority list was prepared by taking into



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consideration the date of appointment as Junior Assistant and also date of appointment as Wok Assistant. None of the juniors to the petitioners were included in the said seniority list. All the persons who are shown in the impugned seniority list were appointed as Junior Assistants much prior to the appointment of the petitioners as Junior Assistants.

9. In the circumstances, this Court does not see any merit in the writ petition and the same is accordingly dismissed. The connected miscellaneous petitions, if any shall stand closed. No costs.

01.10.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

MUMMINENI SUDHEER KUMAR,J.
dpa

To

1.The Secretary to the Government,
Government of Tamil Nadu,

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Housing and Urban Development Department,
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- 2.The Managing Director,
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- 3.The Secretary & Personal Officer,
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