



WEB COPY

Review Application Nos.64 and 117 of 2011
106 of 2012 and 32 of 2013



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-03-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

And

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

**Review Application (W) Nos.64 and 117 of 2011,
106 of 2012 and 32 of 2013**

And

MP Nos.2 of 2011, 1, 3 of 2012 and 1, 2 of 2013

in

WP No.5969 of 2008

1.D.Vijayakumar
2.M.Sukumaran
3.R.Emaichandran
4.J.Beemaroo
5.M.Arul
6.B.Palanisamy
7.V.K.Shanmugam

.. Review Petitioners in Rev.Appn.64/2011

1.N.Kalaiselvi
2.C.Rufus Marshall Ananth
3.P.Subha

.. Review Petitioners in Rev.Appn.117/2011

1.T.Gandhi Kumar
2.R.Rammohan
3.P.Karunakaran
4.M.Kamala
5.K.Padmanathan
6.C.Singaram



- 7.G.Uthayaraj
- 8.K.Saraswathy
- 9.N.Saraswathi
- 10.D.Radha
- 11.S.N.Padmavathy
- 12.P.Prabhakaran
- 13.B.Gopalakrishnan
- 14.S.Chitra
- 15.N.Selvam
- 16.P.Thambidurai
- 17.S.Sivaganapathy
- 18.M.Sathiyabama
- 19.G.S.Vasanthi
- 20.S.Krishnaveni
- 21.R.Vasanthakumari
- 22.S.Balakrishnan
- 23.C.D.Sivakumar
- 24.R.Ramaraj
- 25.T.Raja
- 26.S.Arumugam
- 27.K.Sudhendra
- 28.R.Malliga
- 29.V.Paulmani
- 30.S.Vathsala
- 31.K.Sivagamy
- 32.M.Sarojini
- 33.S.Kamalaveni

.. Review Petitioners in Rev.Appn.106/2012

- 1.K.Saleem
- 2.A.Punniyanathan
- 3.T.Vijay
- 4.A.Y.Victor Arulnithy
- 5.N.Sreedharan
- 6.S.Yogaraj
- 7.R.Padmavathy
- 8.S.Kannan

.. Review Petitioners in Rev.Appn.32/2013



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Review Application Nos.64 and 117 of 2011
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-VS-

1.K.A.Baskaran

2.State of Tamil Nadu

Represented by its Secretary to Government,
Home (Courts) Department,
Chennai-600 009.

3.The Registrar-General,
High Court,
Chennai-600 014.

4.The Principal District Judge,
Krishnagiri.

5.The Principal District Judge,
Dharmapuri.

.. Respondents in all Review
Applications

Review Application No.64 of 2011 has been filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure, against the order passed by this Court in WP No.5969 of 2008 dated 17.07.2008.

Review Application No.117 of 2011 has been filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure, against the order passed by this Court in WP No.5969 of 2008 dated 17.07.2008.



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Review Application No.106 of 2012 has been filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure, against the order passed by this Court in WP No.5969 of 2008 dated 17.07.2008.

Review Application No.32 of 2013 has been filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure, against the order passed by this Court in WP No.5969 of 2008 dated 17.07.2008.

For Review Petitioners in all Review Applications	:	Mr.S.N.Ravichandran
For Respondent-1 in Review Application Nos.64/2011 and 106/2012	:	Not Ready in Notice
For Respondent-1 in Review Application Nos.117/2011, and 32/2013	:	No Appearance
For Respondent-2 in all Review Applications	:	Ms.P.Raja Rajeswari, Government Advocate.
For Respondents-3 to 5 in all Review Applications	:	Mr.V.Ayyadurai, Senior Counsel for Mr.A.Durai Eswar.



COMMON ORDER

[COMMON ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The review applications have been instituted to review the order dated 17.07.2008 passed in WP No.5669 of 2018.

2. Interestingly, the review applications were admitted in the year 2011 and are pending for the past about 13 years without any periodical listing. We are frequently noticing that wherever interim stay is granted, either in the writ petitions, writ appeals or review applications, those cases are not listed periodically and the said cases are listed after prolonged period. Unjust enjoyment of interim order by any party, at no circumstances, be permitted. Once the interim order is granted, the matters are to be listed periodically by the Registry, High Court. In the present cases, unfortunately, even the review applications are not listed periodically for the past about 13 years.



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3. Mr.S.N.Ravichandran, learned counsel appearing on behalf of the review petitioners, would mainly contend that the review petitioners were not impleaded as parties in the main writ petitions. Therefore, they had no opportunity to place their grounds with reference to the merger of posts of Copyist and Typist and publication of Combined Seniority List. Since the review petitioners were not impleaded as parties in the writ proceedings, they have filed the present review applications.

4. The review petitioners were appointed to various categories of posts like Junior Assistant, Copyist, Readers, Examiners and Junior Bailiffs etc. They were appointed on different dates. Particularly, some of the review petitioners were appointed prior to implementation of V Pay Commission implemented with effect from 01.06.1988 and some of the review petitioners were appointed after 01.06.1988.

5. The contention of the review petitioners are that on account of issuance of Combined Seniority List of Copyist and Typist, they are



deprived of their promotional opportunities as per the ratio prescribed under the Rules. Consequent to publication of Combined Seniority List, some of the review petitioners faced reversion orders. Thus review petitioners have filed the present review applications.

6. Mr.S.N.Ravichandran, learned counsel appearing on behalf of the review petitioners, would submit that the post of Typist, cannot be equated with the post of Copyist. The job responsibilities are distinct and different. The scale of pay was not identical prior to 01.06.1988. Thus merger of these posts and preparation of Combined Seniority List, are impermissible and in violation of Service Rules. Rule 36 of the Tamil Nadu Judicial Ministerial Service Rules, is inapplicable and erroneously applied in the present cases. Thus the order passed in the writ petition in WP No.5569 of 2008 dated 17.07.2008, is to be reviewed.

7. It is further contended that uniform scale was brought in from the year 1993 onwards. Therefore, the seniority is to be computed from the date of appointment and not from the earlier date. On account of

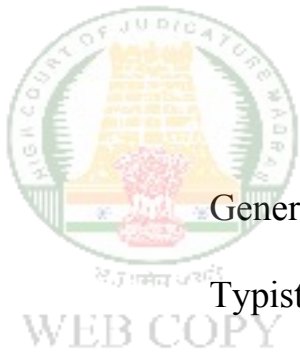


erroneous application of Rule 36(b) of the Tamil Nadu Judicial Ministerial Service Rules, the review petitioners suffered seniority and lost their opportunity to secure promotion to the higher post.

8. The scope of review petition is limited. Since the review petitioners were not impleaded as parties in the main writ petitions, we have considered merits with reference to the order passed by this Court, which is sought to be reviewed.

9. The writ petitions were instituted questioning the validity of merger of the posts of Typist and Copyist and also the Combined Seniority List prepared consequentially.

10. In the context of reliefs sought for in the writ proceedings, the Division Bench has made a categorical finding that prior to 01.06.1988, the post of Typist (Rs.975-Rs.1,660/-) having higher scale of pay, the Copyist (Rs.825-Rs.1,200/-), the Typists shall rank senior to Copyists *en mass*. Therefore, the letter dated 11.01.2008, issued by the Registrar-



General of Madras High Court, may hold good in respect of Copyists and Typists, who were appointed prior to 01.06.1988, but such principle cannot be followed for Copyists and Typists, appointed/promoted after 01.06.1988. Since 01st June 1988, if any Copyist has been appointed by promotion as Typist, for all purposes, as they are to be treated to have been transferred to the post of Typists, the scale of pay being identical in such cases, Rule 36(b) of the Tamil Nadu Judicial Ministerial Service Rules, shall apply for determination of seniority. The date of first appointment will be the criteria for determination of seniority between Copyists and Typists, if appointed, since 01st June 1988 and the guidelines issued by the Registrar-General of Madras High Court, dated 11.01.2008, to that extent, held as illegal. The Principal District Judge and Appointing Authorities, cannot act on the basis of the letter dated 11.01.2008, for determination of seniority of Copyists and Typists, but if appointed/transferred/promoted on or after 01.06.1988, and provisional seniority list, if so prepared on the basis of letter dated 11.01.2008, is to be recalled.

11. Therefore, the Division Bench, in unequivocal terms, hold



that the Copyists and Typists appointed prior to 01.06.1988, are to be treated as different class and the Typists and Copyists appointed after 01.06.1988 are to be treated as unified single class. After 01.06.1988, the scale of pay became identical for Copyists and Typists. Therefore, Combined Seniority List was prepared based on the date of appointment in the cadre as per Rule 36 (b) of the Tamil Nadu Judicial Ministerial Service Rules.

12. It is brought to the notice of this Court that, in view of the interim stay granted in the review applications, the review petitioners, who faced reversion order, were allowed to continue in the same post and as of now many of them have retired from service.

13. Merger of posts is a policy decision and the prerogative of employer. Merger of post cannot be questioned by the employees, as it is the administrative decision taken in the interest of the public administration. The merger took place only after implementation of V Pay Commission with effect from 01.06.1988. The scale of pay of the posts of Typist and Copyist subsequently became identical. Once the scale of pay became identical, the



post of Copyist was merged with the post of Typist and treated as single category of Typist. Thereafter, all the employees appointed either in the post of Copyists or in the post of Typists, are to be treated only as Typists and consequently, Seniority List was prepared based on their respective date of appointment/promotion in the post.

14. Pertinently, merger of the post of Copyists and Typists were not contested in the writ proceedings before the Division Bench. The Division Bench recorded that the parties have not seriously objected the merger. Therefore, the Division Bench considered the issue relating to Combined Seniority List. Once the merger became final, the post of Copyist and Typist became single category and all employees became Typists. Therefore, the Seniority List published based on the respective date of appointment of employees is hold good.

15. In the present review applications, an attempt has been made to question the validity of merger, which cannot be done in view of the fact that the merger post is an administrative decision and the prerogative of employer. Further the issue was not contested in the writ proceedings.



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16. In view of the facts and circumstances, we do not find any error apparent warranting interference by invoking the review jurisdiction of this Court. Consequently, all the review applications are dismissed. However, there shall be no order as to costs. The connected miscellaneous petitions are also dismissed.

(S.M.SUBRAMANIAM,J.)

(K.RAJASEKAR,J.)

21-03-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To



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1. The Secretary to Government,
State of Tamil Nadu
Home (Courts) Department,
Chennai-600 009.
2. The Registrar-General,
High Court,
Chennai-600 014.
3. The Principal District Judge,
Krishnagiri.
4. The Principal District Judge,
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S.M.SUBRAMANIAM, J.
AND



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