



W.P.No.21058 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.21058 of 2022 and
W.M.P.Nos.20071 & 20073 of 2022

G.Balamurugan

...Petitioner

-Vs-

1. The State of Tamilnadu,
Represented by its Secretary,
Personnel and Administrative Reforms Department,
Secretariate, Chennai-9.
2. The State of Tamilnadu,
Rep. By its Principal Secretary to Government,
Health & Family Welfare Department,
Secretariate, Fort St., George,
Chennai-600 009.
3. The Director of Drugs Control,
Chennai-600 006.
4. The Secretary,
Tamilnadu Public Service Commission,
TNPSC Road,
Chennai-600 003.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for



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issuance of a Writ of Certiorarified Mandamus calling for the records of revised seniority list issued by the Director of Drugs Controller bearing Ref.No.2699/E1/2021 dated 27.01.2022, quash the same and consequently direct the respondents to refix my seniority as per the marks obtained in TNPSC examination.

For petitioner : Mr.Shivakumar and Suresh

For respondents 1 to 3 : Mr.V.Veluchamy,
Addl. Government Pleader

For respondent 4 : Mrs.C.N.G. Nirai Mathi
Standing Counsel

ORDER

This writ petition has been filed challenging the revised seniority list published by the 3rd respondent dated 27.01.2022.

2. The fourth respondent had issued notification No.198 dated 04.04.2009 for the year 2006-2007 for the post of Drugs Inspector. The petitioner is qualified to apply for the post and applied for the said post. The petitioner was qualified in the written examination and attended interview. He had scored 210 marks out of total 340 marks and his name was placed in Serial No.12. However, due to communal roster system, the petitioner was



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given Sl.No.24. However, he was not selected to the post of Drugs Inspector and his name was included in the reserved list in the category of General Turn No.1 and backward class (other than BC Muslim (General) (1). Thereafter, on 28.06.2010 he received communication from the fourth respondent and informed that the petitioner had been supplementally and provisionally selected from the reserve list to the post of Drug Inspector. Accordingly, the petitioner was temporarily appointed as Drug Inspector in the office of the Directorate of Drugs Control Administration, Thanjavur and he had joined duty on 27.08.2010. After completion of his probationary period of two years, his appointment was regularized on 26.08.2012 with effect from 27.08.2010. He was awarded selection grade in the post of Drugs Inspector on completion of ten years of service. Subsequently, he was promoted as Manager (Purchase) at Tamilnadu Medical Services Corporation Ltd., Chennai under Foreign Terms of Service. While being so, a batch of writ petitions were filed challenging the roster system for fixing seniority for promotion. The writ petitions were disposed of with direction to pass appropriate orders on the representation submitted by the petitioners. Accordingly, the 4th respondent revised the seniority list and published on



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19.01.2022 on the basis of marks obtained in the common examination conducted by the 4th respondent. Accordingly, the name of the petitioner was placed in Sl.No.24. The grievance of the petitioner is that the 3rd respondent failed to fix the seniority as per the marks obtained in the common recruitment examination. Therefore, it is contrary to the principles of Article 14 and 19 of Constitution of India.

3. On perusal of the counter affidavit filed by the second and third respondent revealed that as directed by this Court, the 3rd respondent requested the 4th respondent to sent the revised seniority list. Accordingly, the 4th respondent had sent the revised seniority list on the basis of merit. It is relevant to extract the section 27(f) of the Tamilnadu Government Servants (Conditions and Service) Act, 2016 :

".....Provided also that when a candidate selected for appointment against a vacancy for Scheduled Castes/Scheduled Tribes, Most Backward Classes/Denotified Communities, Backward Classes, Backward Class Muslims or General Turn, does not join duty in the post for which he is appointed or his provisional selection for the post is cancelled for any reason, a candidate in his place shall be appointed from the respective category and in accordance



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with the ranking from the reserve list:

Provided also that the candidates appointed from the reserve list shall be placed below all the candidates appointed from the regular list in the same order in which the vacancies have arisen:

.....

4. Accordingly, the candidates who were appointed from the reserved list shall be placed below all the candidates appointed from the regular list in the same order in which the vacancies have arisen. Admittedly, the petitioner shall be appointed to the post of Drugs Inspector from the reserved list on 27.08.2010 as per original selection list to the post of Drugs Inspector were filled up in the year 2009 itself. Accordingly, the petitioner's seniority list was revised and placed him below all the candidates who were already appointed as per regular list. Accordingly, he was placed at Sl.No.24. Due to non joining of candidate and filled up that vacancy, the petitioner was later recruited by the 4th respondent from the reserved list and joined at later date. Thus, he could be placed in the seniority list after all the 23 candidates who were selected from the regular list. In this regard, it is also relevant to rely upon the judgement of Hon'ble High Court of Delhi in the case of *Union of India and another vs Pallavi Gupta and others* in *W.P.(C).No.14908 of 2022 dated 12.07.2023*. The relevant portion of the



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judgement reads as follows:

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"33... So, the controversy is whether the candidates appointed from the Reserve List, because of non-joining of the candidates initially recommended by the UPSC, would rank senior to the candidates initially recommended/appointed in terms of the first recommendation of the UPSC, as they possess higher marks and/or had joined the service prior to such initially recommended candidates.

38.. There is no dispute that the date of recommendations of the UPSC insofar as recruitment to 44 vacancies tot eh post of Assistant Director, Operations is concerned, was April 13, 2015. But pursuant to the petitioners' approaching the UPSC because of non-joining of a few recommended candidates, the UPSC operated the Reserve List and on May 17,2016, made fresh recommendations of candidates including the respondent No.1 in W.P.(C) 14908/2022 Pallavi Gupta. So, it is the date of May 17, 2016 which would be construed as the date of completion of her selection."

5. The above judgement is squarely applicable to the case on hand.

Since, the petitioner was appointed only after the candidates who were already appointed as per regular list to the post of Drugs Inspector.



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Therefore, the petitioner is not entitle for claim any seniority on par with candidates who were selected and included in the original selection list and joined as Drugs Inspectors in the year 2009. Therefore, the seniority of the petitioner rightly placed below the persons who were already selected and joined in the year 2009.

6. Therefore, this court cannot find any infirmity or illegality in the revised seniority list published by the 3rd respondent dated 27.01.2022. Hence, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. No costs.

26.03.2024

Index : Yes/No
Speaking/Non-Speaking Order
Neutral Citation : Yes/No
gvn

G.K.ILANTHIRAIYAN,J.
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To

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