



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-03-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

**WP No.22180 of 2023
And
WMP No.21571 of 2023**

1.Kalaiarasan, J.
2.Sarathy, G.

.. Petitioners

-VS-

1.The Union of India,
Through the Hon'ble Lt.Governor,
The Union of Territory of Puducherry,
Government of Puducherry,
Secretariat, Goubert Avenue,
Puducherry.

2.Secretary to Government (Law),
Law Department, First Floor, B Block,
Chief Secretariat, Goubert Avenue,
Puducherry-605 001.



3. Judicial Department,
Represented by the Chief Judge,
Integrated Court Complex. Mudaliarpet,
Puducherry.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent bearing Memo No.688/JD/A/2023 dated 19.05.2023, on the file of Chief Judge, Puducherry and quash the same as illegal, incompetent and devoid of merit and consequently direct the respondents to issue a fresh list in congruence with the guidelines set forth DOPT.

For Petitioner : Mr.Sunny Sheen Akkana for
Ms.V.Srimathi.

For Respondents : Mr.S.Raveekumar,
Government Pleader (Puducherry).

ORDER

[ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The Combined Final Inter-se/Combined Seniority List of Junior Clerk and Typist, issued by the Government of Puducherry Judicial Department in proceedings dated 19.05.2023, is under challenge in the present writ petition.



2. The writ petitioners were appointed as Junior Clerk and the next avenue for promotion to the post of Senior Clerk.

3. It is not in dispute that the posts of Junior Clerk and Typist carry identical scale of pay and both the posts are eligible for promotion to the post of Senior Clerk. The Government of Puducherry took a policy decision to publish the Combined Seniority List of Junior Clerk/Typist for considering promotion to the post of Senior Clerk amongst the eligible employees.

4. The learned counsel for the petitioners would submit that the Combined Seniority List was prepared erroneously not adhering to the Office Memorandum and the guidelines issued in this regard, but the Amendment was directed to be carried out in the Rules before grant of promotion. Now without amending the relevant Rules and fixing the right or otherwise, the Combined Inter-se Seniority List published, which would cause prejudice to the interest of Junior Clerks and Typists in the Puducherry Judicial Department.



5. The learned Government Pleader, appearing on behalf of the respondents, would oppose the contentions raised on behalf of the petitioners by stating that the seniority of the petitioners were fixed in the Final Seniority List of Junior Clerk in proceedings dated 10.06.2014. The said Seniority List became final and without disturbing the Final Seniority List of Junior Clerk, the Inter-se Combined Seniority List of Junior Clerk and Typist was prepared in proceedings dated 19.05.2023, which is impugned in the present writ petition.

6. Since the Final Seniority List of Junior Clerk and Typist became final and remains unchallenged, now the petitioners after a lapse of about 8-1/2 years cannot turn around and question the validity of the Combined Seniority List, which was issued without altering or disturbing the Final Seniority List issued in proceedings dated 10.06.2014.

7. It is not in dispute that the Final seniority List of Junior Clerk was published on 10.06.2014. In view of the fact that the petitioners and other Junior Clerks have accepted the said Seniority List and their



respective position in the said Seniority List.

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8. It is clarified by the learned Government Pleader, appearing on behalf of the respondents, that the said Final Seniority List was not disturbed and the Combined Seniority List of Junior Clerk and Typist, was prepared to consider the names of eligible employees from amongst these categories for promotion to the post of Senior Clerk. Since the writ petitioners in the cadre of Junior Clerk remains unaffected, challenging the proceedings of the first respondent dated 19.05.2023, is untenable. More-so, the petitioners have not challenged the Final Seniority List dated 10.06.2014. Now they cannot turn around and challenge the Combined Seniority List, which was prepared based on the Final Seniority List dated 10.06.2014 and without disturbing the Combined Seniority List of Junior Clerk, whose names are placed in the said list of the year 2014.

9. Amending the Rules is the prerogative of the employer and now the Combined Seniority List was issued based on the policy decision taken by the Government of Pududicherry.



10. The settled seniority in the cadre of Junior Clerk published in the year 2014, cannot be unsettled after a lapse of about 8-1/2 years. Unsettling the seniority, after the lapse of several years, would result in larger repercussions in the matter of further promotion amongst the employees.

11. This being the factum, we are not inclined to interfere with the Combined Seniority List issued by the first respondent bearing in Memo No.688/JD/A/2023 dated 19.05.2023.

12. Consequently, the present writ petition stands dismissed. However, there shall be no order as to costs. The connected miscellaneous petition is also dismissed.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

13-03-2024

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

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Union of India,
The Union of Territory of Puducherry,
Government of Puducherry,
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2. Secretary to Government (Law),
Law Department, First Floor, B Block,
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3. The Chief Judge,
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