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Sub Application Nos.655 and 656 of 2023 in
Cont. Petn. No.1692 of 2021

**Sub Application Nos.655 and 656 of 2023
in
Cont. Petn. No.1692 of 2021**

M. SUNDAR, J.
and
RMT. TEEKAA RAMAN, J.

Mr. K. Srinivasa Murthy, learned counsel for three applicants, Mr. N. Subramaniam, learned counsel for respondents 1 to 4 (private respondents) Mr.S.John J. Raja Singh, learned Additional Government Pleader for respondents 5 to 9 (official respondents) are present before us.

2. Captioned sub applications turn on a very narrow compass.

3. In and by an order dated 15.11.2019 made in W.P. Nos.998 of 2017 *etc.*, batch, a Hon'ble Division Bench in which one of us (RMT. Teekaa Raman, J.) was a Member, *inter alia* directed to redo the exercise of fixation of seniority within a time frame of 12 weeks, it is not necessary to dilate more on this order as the captioned sub applications pertain to an order dated 17.07.2023 made in the captioned main contempt petition and the said order reads as follows:



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'Cont. P. 1692 No.2021
Cont.P. (D) No.19402 of 2022 & Sub Appln. No.159 of 2022
Cont. P. No.164 of 2022

S. VAIDYANATHAN, J.
and
RMT. TEEKAA RAMAN, J.

Today, when the matter was taken up for hearing, Mr. Silambanan, learned Additional Advocate General, assisted by Mr. S. John J. Raja Singh, learned Additional Government Pleader, submitted the compliance report dated 21.06.2023 filed by the fourth respondent, in Cont. P. No.1692 of 2021, paragraphs 4 and 5 of which are extracted below:

"4. It is humbly submitted that now, the pay has been fixed for the petitioner Thiru. D. Vijayakumar who is included in the panel year 2018 and is given notional promotion from 15.09.2018 and his pay has been raised from Rs.36,900/- to Rs.41,500/- by the District Collector, Chengalpattu, in his proceedings Rc.No.12645/2022/A.1 dated 29.05.2023 and accordingly, the monetary benefits for him is released by way of ECS on 12.06.2023. In the same manner, the pay has been fixed for another petitioner Tmt. Bhuvaneswari who is included in the panel year 2018 and is given notional promotion from 15.09.2018 by the District Collector, Kancheepuram, in her proceedings Rc.No.19596/2018/A.2 dated 18.05.2023 and the monetary benefits for her is given through ECS on 07.06.2023. Further, the pay has been fixed for the petitioners Thiru. V. Vijayakumar included in 2020 panel list and given notional promotion from 15.09.2021 by the proceedings of the District Collector, Kancheepuram Rc.No.19596/2018/A.2 dated 18.05.2023 and the monetary benefits for them is given through ECS on 16.06.2023 and on 13.06.2023 respectively.

5. It is humbly submitted that the pay has been fixed for the petitioner Thiru. G. Sukumar who is included in the panel year 2019 and is given notional promotion from 15.09.2019 by the District Collector, Chengalpattu, in his proceedings Rc.No.12645/2022/A.1 dated 29.05.2023 and accordingly, the pay bill has been prepared and uploaded in IFHRMS and requested for changing of head of account as he is working in foreign service. It is



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submitted the monetary benefits for him will be released by way of ECS within four days."

2 As per the above extracted portion of the compliance report filed by the fourth respondent, three petitioners, viz., E. Boopathy, V.Vijayakumar and K. Bhuvaneswari, have been given notional promotion, but, monetary benefits have been extended to them from the date of their joining, since the order alleging noncompliance of which, this contempt petition has been filed, does not specify a futuristic date from which the monetary benefits will have to be extended.

3 Mr. Silambanan, learned Additional Advocate General, submitted that he would get instructions, as to from when, the monetary benefits have been extended to the aforesaid three petitioners. He further submitted that the other four petitioners, viz., Y. Ramya, P. Latha Priya, S.Anjalai and R. Sathya, do not fall within the zone of consideration and hence, they have not been given promotional benefits.

4 Pursuant to the above, Mr. Subramaniyan, learned counsel for the petitioners in Cont. P. No.1692 of 2021 submitted that the petitioners, viz., E. Boopathy, V.Vijayakumar and K. Bhuvaneswari have been given notional promotion and they have grievance only with regard to payment of monetary benefits and that the same shall be paid to them retrospectively, i.e., from the date of notional promotion and not from the actual date of joining.

5 In view of the above, the fourth respondent is expected to report the same in the next date of hearing.

6 Post on 10.08.2023.

7 Since Y. Ramya, P. Latha Priya, S. Anjalai and R. Sathya do not fall within the zone of consideration, Cont.P. No.1692 of 2021 stands closed in respect of these four petitioners.'

4. Mr. Srinivasa Murthy, learned counsel, made a pointed submission that paragraph 7 of the aforementioned order deserves to be recalled as the three individuals, viz., Y. Ramya, S. Anjalai and R. Sathya, who are applicants in the



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captioned sub applications before us would have fallen within the zone of consideration had the panel been drawn correctly. In other words, the State has made an error in drawing the panel, is learned counsel's contention. In this regard, he drew our attention to paragraph 12 of the support affidavit (*qua* captioned sub applications) which reads as follows:

'12. I submit for the reasons best known, in Sl.No.41 of the Temporary Panel of Deputy Tahsildars for the year 2018, an Assistant in the seniority No.142 of 2012 batch has been inserted. Further the Assistants in Sl.No.27, 36 and 59 in the temporary panel dated 02.05.2022 belongs to 2014 batch. When the Assistants of the 2012 batch itself is still awaiting for the promotion to the post of Deputy Tahsildar, the respondents clandestinely included far juniors that too those belonging to 2014 were included. The Assistant in Sl.No.14 and 17 of the panel dated 02.05.2022 are far juniors in the and their seniority is in Sl.No.162 and 170. Till date they have not completed the Firka Revenue Inspector Training. Despite that they have been included in the 2018 panel. The fact that their name also been included in the panel only shows that the respondents are not implementing the judgment of this Hon'ble Court in true letter and spirit. I submit, if the names of the said Assistants are not there, our names would have found place in the said panel or in immediate next panel. Therefore, the submissions made on behalf of the official respondents that we are not within the zone of consideration is not correct.'

In other words, the aforementioned paragraph 12 of the support affidavit is the crux and gravamen or to put it differently, the kernel of the sub applications.

5. Mr. N. Subramaniyan, learned counsel for respondents 1 to 4 (private respondents) submitted that the argument that is projected by the applicants in the



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sub applications is a different cause of action and if the applicants in the sub applications have a grievance regarding the manner in which the panel has been drawn by the State, they have to canvass the same by way of a separate writ petition. To be noted, Mr. S. John J. Raja Singh, learned Additional Government Pleader for respondents 5 to 9 also contended on the same lines.

6. We carefully considered the submissions on either side.

7. We find that the entire matter rests on the manner in which the panel has been drawn by the State. In other words, it cannot be gainsaid that the three applicants in the captioned sub applications were within the zone of consideration as on 17.07.2023. All that is argued is, the applicants in the captioned sub applications would have come within the zone of consideration if the panel had been drawn correctly, *i.e.*, not drawn erroneously.

8. At this juncture, it would be profitable to advert to the prayers in the sub applications which run as follows:



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Prayer in Sub Application (OS) No.655 of 2023:

'..... it is prayed that this Hon'ble Court may re-open the contempt petition No.1692 of 2021 in respect of applicants/petitioner nos.3,6 and 7 which was closed on 17.07.2023.....'

Prayer in Sub Application (OS) No.656 of 2023:

'..... it is prayed that this Hon'ble Court may be pleased to recall para 7 of the order dated 17.07.2023 in contempt petition no.1692 of 2021 and hear us

9. As already alluded to *supra*, it will be clear that the crux and gravamen of the matter at hand (captioned sub applications) is paragraph 7 of the order dated 17.07.2023.

10. In the light of the discussion and dispositive reasoning thus far, we are of the considered view that it would be appropriate to preserve the rights and contentions of the applicants in the captioned sub applications (for canvassing or agitating in appropriate forum/fora by way of a writ petition or in any other manner available in law) as regards the manner in which the panel has been drawn by the State or the alleged incorrectness in the manner in which the panel has been drawn. If such a course is adopted by the applicants in the sub applications, the



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aforementioned paragraph 7 in 17.07.2023 order will neither become an impediment nor serve as an impetus. To put it differently, paragraph 7 in 17.07.2023 order will not come in the way and will not aid either party. All rights are preserved and questions are left open for applicants in sub applications to pursue the aforementioned course, if so advised and if they so desire. {To be noted, we make it clear that we are taking this view *inter alia* in the light of the limited scope of contempt jurisdiction}.

Captioned sub applications are disposed of as closed albeit with aforementioned observations and preservation of rights of the applicants in the aforesaid manner. There shall be no order as to costs.

(M.S., J.) (T.K.R., J.)
10.09.2024

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10.09.2024