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W.P.No.35204 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE C.SARAVANAN**

**W.P.No.35204 of 2024 and
W.M.P.No.38116 of 2024**

J.THENMOZHI
W/O.M.KALIVARADHAN

... Petitioner

Vs.

1.THE REGISTRAR GENERAL
MADRAS HIGH COURT,
CHENNAI.

2.THE PRINCIPAL DISTRICT JUDGE,
VILLUPURAM.

3.THE PRINCIPAL DISTRICT JUDGE,
KALLAKURICHI.

4.P.GOWRI
SHERISHTADAR,
SPECIAL COURT FOR EXCLUSIVE
TRIAL OF CASES REGISTERED
UDNER SC/ST ACT,
VILLUPURAM.

5.R.KALAIVANI
SHERISHTADAR, SPECIAL COURT FOR
TRIAL OF POCSO ACT CASES,
VILLUPURAM.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the impugned order of the 2nd respondent herein in her proceedings in A. No.303/2024 dated 15.07.2024 and quash the same and consequently, direct the respondents 1 to 3 herein to issue the revised seniority list placing the writ petitioner in Sl.No.2 over and above the respondents 4 and 5 herein in cader of Sherishtadar of the Kallakurichi District.

For Petitioner	: Mr.P.Dinesh Kumar
For R1 to R3	: Mr.Arjun Suresh
For R4 & R5	: Notice Dispensed with

ORDER

(Order of the Court is made by *R.SURESH KUMAR, J.*)

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records of the impugned order of the 2nd respondent herein in proceedings in A.No.303/2024, dated 15.07.2024 and quash the same and consequently, direct the respondents 1 to 3 herein to issue the revised seniority list placing the writ petitioner in Sl.No.2 over and above the respondents 4 and 5 herein in the cader of Sherishtadar of the Kallakurichi District.

2.That originally, there was a judicial district called Villupuram. That is based on the revenue district of Villupuram.



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3.Subsequently, the Villupuram revenue district has been bifurcated i.e., Villupuram District and Kallakurichi District. Following the same, it became necessary to create separate judicial district for Kallakurichi revenue limit and therefore, Kallakurichi judicial district has been formed with effect from 23.01.2024. After the Kallakurichi judicial district was formed, since necessary posting orders had to be given, to fill up the posts as per the vacancies that were available in these two separate judicial districts, i.e., Villupuram and Kallakurichi, how such a posting to be given, how *interse* seniority among the staff in a particular cadre to be maintained and how a separate seniority list for each of the judicial districts to be maintained has been provided by the High Court, by its official proceedings in ROC No.64150-C/2024/C1, dated 03.07.2024, where, *inter alia* the following has been stated,

Considering the request of the Principal District Judge, Villupuram, in the letter read above, the High Court is pleased to issue the following instructions:

1.Maintain Transfer and Postings of the Staff Members, fixation of independent District Seniority List and Appointment of the Steno-typist, Junior Assistant and Typist to the entire Villupuram District including the newly formed



Kallakurichi District, who were selected through TNPSC, Chennai till 15.07.2024 and thereafter, to maintain a separate Seniority List with effect from 16.07.2024.

*2.Inasmuch as the Staff members are posted in the newly formed Districts, based on their options, independent District Seniority list will have to be maintained by the Principal District Judges and the Chief Judicial Magistrates of Villupuram and Kallakurichi Districts **with effect from 16.07.2024.***

.....

.....

7.Only after accommodating the existing staff as per the option, further new appointments should be made. The seniority of the new recruits should be such that, they are placed only as juniors to the staff members, who are now accommodated in the District as per their option already exercised.

8.Persons, who have been posted in the Districts against their option may be reposted to the District of their choice as per the option.



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9.All the persons, who are to be posted in the District of their choice as per option may be posted without detriment to their original seniority.

4.Insofar as the petitioner is concerned, she was working as Sherishtadar, Special District Court to deal with MCOP cases at Villupuram and as per her option, which was given to all staff members, i.e., either to be retained at Villupuram judicial district or to be transferred to the Kallakurichi judicial district, since she had expressed her willingness and option to be transferred and posted at Kallakurichi judicial district, by an order dated 09.07.2024, issued by the Principal District Judge, Villupuram, the petitioner had been transferred and posted to act as Sherishtadar, Chief Judicial Magistrate, Kallakurichi district. Since then, she joined there and working as such.

5.After few days, further transfer and posting orders have been issued by the Principal District Judge, Villupuram, on 15.07.2024, whereby, the 4th respondent working as Sherishtadar, Special Court for trial of SC/ST Act cases, Villupuram and the 5th respondent working as Sherishtadar, Special Court for trial of POCSO Act cases, Villupuram, since the post of Sherishtadar at



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Villupuram has been exhausted, they had to be necessarily posted in the existing post in the cadre of Sherishtadar and therefore, posted at Kallakurichi district by the said transfer and posting order, dated 15.07.2024.

6.In this context, it is the grievance of the writ petitioner that by the said order dated 15.07.2024, since respondents 4 & 5 had been transferred and posted as Sherishtadars at Kallakurichi judicial district by maintaining *interse* seniority among them and by maintaining a separate seniority in each cadre at the newly formed Kallakurichi judicial district, the respondents 4 & 5 being seniors in the erstwhile district before bifurcation would march over the writ petitioner. Therefore, challenging the said order dated 15.07.2024 seeking quashment of the same, the petitioner has approached this Court and filed the present writ petition.

7.Heard Mr.P.Dinesh Kumar, learned counsel for the petitioner and Mr.Arjun Suresh, learned standing counsel appearing for the respondents 1 to 3.

8.In view of the order that is going to be passed in this writ petition, notice to respondents 4 & 5 is hereby dispensed with.



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9. That it is contended by the learned counsel for the petitioner by citing clause 7 of the proceedings in ROC No.64150-C/2024/C1, dated 03.07.2024 that only after accommodating the existing staff as per the option, further new appointments should be made and the seniority of the new recruits should be such that, they should be placed as juniors to the staff members, who are now accommodated in the district as per their option already exercised. He would further submit that the writ petitioner already exercised her option to become the staff of the Kallakurichi district and she was posted and joined there on 09.07.2024. When that being so, the subsequent transfer and posting that has been given to respondents 4 & 5 on 15.07.2024 cannot take the seniority over the already posted writ petitioner, who has been posted at the Kallakurichi district based on the option she has already exercised. Hence, the learned counsel would canvass the point that the present impugned order giving such postings to respondents 4 & 5, placing them above or intending to place them above by fixing the *interse* seniority among them at Kallakurichi district than the writ petitioner would run contra to the clause 7 of the proceedings dated 03.07.2024, issued by the High Court of Madras. Hence, the learned counsel seeks indulgence of this Court against the order impugned, dated 15.07.2024.



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10. However, Mr. Arjun Suresh, learned standing counsel appearing for the respondents 1 to 3 would rely upon clauses 1 & 2 of the very same proceedings dated 03.07.2024, where, it has been made clear by the High Court of Madras that how the *interse* seniority among the staff members in a particular cadre of each of the districts should be maintained, under which, whatever be the place of posting, either at the original district of Villupuram or the newly formed district of Kallakurichi, upto 15.07.2024, the seniority to be maintained as a combined seniority for both the districts. However, a separate seniority shall be maintained only from 16.07.2024. That is the reason why, before 16.07.2024, since these postings have been given by way of transfer to various persons including respondents 4 & 5, by proceedings dated 15.07.2024, respondents 4 & 5 on joining in the newly posted place at Kallakurichi district shall maintain the *interse* seniority with already posted persons like the writ petitioner and such an *interse* seniority list, if it is to be reckoned from 16.07.2024, naturally respondents 4 & 5, being seniors, would march over the writ petitioner and therefore, such proceedings, if it is issued by the Principal District Judge as has been made by issuance of the impugned order, dated 15.07.2024, is strictly inconsonance with clauses 1 & 2 of the proceedings, dated 03.07.2024, of the High Court and hence, it cannot be faulted or cannot be stated to be a faulty one, he contended.



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11. We have considered the rival submissions made by the learned counsel appearing for both parties and perused the materials placed before this Court.

12. As has been rightly pointed out by the learned counsel appearing for the respondents 1 to 3, the proceedings in ROC No.64150-C/2024/C1, dated 03.07.2024, issued by the High Court, has made it very clear in clauses 1 & 2, which has already been extracted herein above, whereby, the High Court made it very clear that the fixation of independent district seniority list and appointment of the persons like Steno-typist, Junior Assistant and Typist to the entire Villupuram District, including, the newly formed Kallakurichi District, who were selected through TNPSC, Chennai, till 15.07.2024 to be maintained and thereafter, to maintain a separate seniority list with effect from 16.07.2024.

13. In clause 2, it has been further made very clear that inasmuch as the staff members are posted in the newly formed districts based on their options, independent district seniority list will have to be maintained by the Principal District Judges and the Chief Judicial Magistrate with effect from 16.07.2024.

14. Therefore, it has been made very clear that whatever be the place



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where the postings have been given even prior to 15.07.2024 and pursuant to such posting orders, if the incumbents have joined in the newly formed Kallakurichi districts, even then, as on 15.07.2024 combined seniority list of the erstwhile Villupuram district alone to be maintained. However, separate seniority list in the two districts have to be started to be maintained by both districts with effect from 16.07.2024.

15. Moreover, insofar as clause 7 is concerned, it has been mentioned about the interplay between the existing staff members, who are already working in the judicial ministerial service and the newly to be recruited as new recruits.

16. Therefore, clause 7 of the proceedings of the High Court cannot come to the rescue of the petitioner and hence, the learned counsel's contention by relying upon clause 7 of the proceedings dated 03.07.2024 of the High Court, would no way advance the case of the writ petitioner.

17. Moreover, when it has been specifically mentioned that whether you exercise the option or not, if a candidate is posted in either of the districts based on option or without even making any option if a candidate is posted in any of



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the district for want of vacancy, both are placed on the same pedestal, where the district wise seniority list has to be maintained or reckoned only from 16.07.2024 separately between the Villupuram and Kallakurichi District and till 15.07.2024, there must be one single seniority list. When that being so, on 09.07.2024, eventhough the writ petitioner has joined at Kallakurichi, pursuant to the option she has already exercised and only on 15.07.2024, the transfer and posting orders have been given to respondents 4 & 5, merely because they have been given only on 15.07.2024, it cannot be stated that the writ petitioner will have to be considered as senior at Kallakurichi District marching over respondents 4 & 5, as that will go against the very spirit of the proceedings issued by the High Court. Moreover, such kind of *interse* seniority to be maintained separately in any judicial district cannot be worked out based on the date of joining before the cut off date that has been fixed by the High Court.

18. Therefore, there is absolutely no substance in the arguments that has been advanced and the case projected by the petitioner side. Further, as per clause 9 of the proceedings, dated 03.07.2024 of the High Court, it states that of the persons, who are to be posted in the district of their choice as per the option may be posted without detriment to their original seniority. Therefore, once they are posted in the district as per their option, the original seniority, without



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detrimental to the original seniority as on 15.07.2024, alone has to be maintained. Only from 16.07.2024, the new district wise seniority to be prepared, where the seniors would be placed above the juniors, which cannot be stated to be against the official memorandum dated 03.07.2024.

19. Therefore, for all these reasons, the challenge that has been made to the order impugned, dated 15.07.2024, fails and accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petition is also closed. However, there shall be no order as to costs.

(R.S.K., J.) (C.S.N., J.)
09.12.2024

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To

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