



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	13.08.2024
PRONOUNCED ON	.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

and

W.M.P.Nos.31147, 31148 of 2017, 6534 of 2018, 11108 & 11109 of 2020

W.P.No.28926 of 2017

1. P.Ranganathan
- 2.A.Sivaprakasam
- 3.R.Krishnamoorthy
- 4.K.R.Pandeeswari
- 5.P.Kavitha
- 6.M.Mathimaram
- 7.S.Gnanamani
- 8.P.Yogaraja
- 9.K.Mookaiah
- 10.K.Shanmugam
- 11.K.Chandrasekar
- 12.A.N.Logesh
- 13.S.Dhanarasu
14. M.Sridhar

.... Petitioners

Vs

1.The Secretary to Government,
Housing and Urban Development Department,
State of Tamilnadu, Fort St. George,
Chennai 600 009

2. The Secretary to Government,



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

P &AR Department,
State of Tamilnadu,
Fort St. George, Chennai 600 009

3. The Tamilnadu Public Service Commission,
Rep. by its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai 600 003

4. The Director of Town and Country Planning,
No.807, Anna Salai,
Chennai 600 002

5. T.Murugan,
6. R.Vazhavandan,
7. S.Sankaramoorthy,
8. N.Kailasam,
9. S.P.Mohammed Ali
10. C.Baskara Thondaiman,

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 1st respondent passed in their order dated 05.01.2017 bearing reference in G.O.3D No.1 and quash the same insofar as it seeks to regularize the appointment of respondents 5 to 10 in the post of Assistant Directors Town and Country Planning Department with effect from 22.02.2008.

W.P.No.5310 of 2018

K.Mookaiah

.... Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by Secretary to Government,
Housing and Urban Development Department,



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

Fort St. George, Secretariat,
Chennai – 600 009.

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2. The Commissioner of Town & Country Planning,
Anna Salai,
Chennai – 600 002.

3. The Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Frazer Bridge Road,
VOC Nagar,
Park Town,
Chennai – 600 003.

4. T.Murugan
5. R.Vazhavanthan
6. S.Sankaramoorthy
7. N.Kailasam
8. S.P.Mohammed Ali
9. C.Baskarathondaiman
10. G.Nagarajan
11. M.Sekaran
12. G.Vasanthi
13. C.Mathivanan

..... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent herein vide Government order in G.O.(2D) No.16, dated 07.02.2018 and quash the same in so far as it relates to fixation of inter-se seniority between direct recruits and promotes in the post of Assistant Directors of Town and Country Planning and placing the respondents 4 to 13 herein above the petitioner herein and direct the first respondent herein to place the petitioner herein above the respondents 4 to 13 herein in the said Seniority List and grant promotion to the petitioner to the post of Deputy Director of Town and Country Planning, Department of Town and



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

Country Planning, ahead of the respondents 4 to 13 herein with all consequential benefits.

W.P.No.9112 of 2020

K.Mookaiah

.... Petitioner

Vs

1. The Government of Tamil Nadu
Rep by The Principal Secretary,
Housing and Urban Development Department,
Fort St.George Secretariat, Chennai-600 009.

2. The Commissioner of Town and Country Planning,
Anna Salai, Chennai-600 002.

3.T.Murugan

4.R.Vazhavanthan

5.S.Sankaramoorthy

6.M.Sekaran

7. C.Mathivanan

..... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the first respondents order made in G.O.(2D) No.58 and G.O.(2D) No.59 Housing and Urban Development (UD2(1)) Department dated 08.02.2020, to quash the same in so far the inclusion and promotions of respondents 3 to 7 are concerned and to consequently direct the respondents to revise and refix the Seniority of the petitioner over and above these respondents 3 to 7, by granting national promotions on par with them in all the cadres with accrued benefits thereto.

For Petitioner

: Mr.L.Chandra Kumar
for Mr.V.S.Senthil Kumar
(in W.P.Nos.5310/2018 & 9112/2020)
Mr.S.Ramesh
(in W.P.No.28926/2017)



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W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

For R1 & R2 : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mrs.E.Rangamayaki
Additional Government Pleader
For R3 : Mr.R.Bharanidharan
For R4 to R13 : Mr.P.Chandrasekaran

COMMON ORDER

W.P.No.28926 of 2017 has been filed challenging the Government order in G.O.3D No.1, dated 05.01.2017 insofar as it seeks to regularize the appointment of respondents 5 to 10 in the post of Assistant Directors Town and Country Planning Department with effect from 22.02.2008.

2. W.P.No.5310 of 2018 has been filed challenging the Government order in G.O.(2D) No.16, dated 07.02.2018, thereby prepared the inter-se seniority list among the promotee Assistant Directors and directly recruited Assistant Directors of the year 2006-2007 and 2007-2008 by placing the promotee Assistant Directors above the directly recruited Assistant Directors.

3. W.P.No.9112 of 2020 has been filed challenging G.O.(2D) No.58 and G.O.(2D) No.59 Housing and Urban Development (UD2(1)) Department dated 08.02.2020, in so far the inclusion and promotions of



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

respondents 3 to 7 are concerned and to consequently direct the respondents to revise and refix the Seniority of the petitioner over and above these respondents 3 to 7, by granting national promotions on par with them in all the cadres with accrued benefits thereto.

4. The issue involved in all the writ petitions are one and the same and as such this Court is inclined to pass a common order.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. The petitioners had participated in the recruitment proceedings to fill up the post of Assistant Director of Town and Country Planning for the year 2006-2007 on the file of the third respondent. They were selected to the post of Assistant Director of Town and Country Planning and appointed in accordance with the Rules and subject to the Rule of Reservation vide G.O.Ms.No.128, Housing and Urban Development Department, dated 28.07.2009 under Rule 10(a)(1) of the General Rules of the Tamil Nadu State and Subordinate Service Rules (hereinafter referred to as “the Rules”). Their appointments were made subject to the final outcome of writ petitions in



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

W.P.No.12943 of 2008 and 12620 of 2008. Due to pendency of these writ

petitions, the petitioners were appointed provisionally under Rule 10(a)(1) of the Rules. Thereafter, the writ petitions were disposed of and the service of the petitioners were regularized with effect from the date of Government order in G.O.Ms.No.128, Housing and Urban Development Department, dated 28.07.2009. The petitioners had duly completed their probation and also passed departmental examination.

7. While being so, the in-service candidates, who were working as Planning Assistants/Supervisors in the Town and Country Planning Department were temporarily promoted by way of stop gap arrangement as per G.O.Ms.No.39, Housing and Urban Development Department, dated 22.02.2008. The said appointments were made purely on an ad-hoc basis that too by relaxing Rule 3A related to ratio of appointment between Degree and Diploma holders in the feeder category posts and Rule 6B related to qualification for the post of Assistant Director. Subsequently, the Government issued orders for regularizing the services of appointees under Rule 10(a)(1) and 23(a)(1) of the Rules from the date of their initial appointments and the declaration of probation orders. Thereafter, their appointments were regularized and declared their probationary period as successful. Therefore, the petitioners



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

and the similarly placed persons challenged the order for regularization of the private respondents in W.P.No.28926 of 2017 insofar as it relates to regularization of their service from the date of their ad-hoc appointment to the post of Assistant Director.

8. Apart from that the first respondent prepared the inter-se seniority list among the promotee Assistant Directors and directly recruited the Assistant Directors of the year 2006-2007 and 2007-2008 by placing the promotee Assistant Directors above the directly recruited Assistant Directors. The panel was prepared for the purpose of promotion to the next higher post i.e., Deputy Director of Town and Country Planning. As per the Ad-hoc rule for the post of Deputy Director of Town and Country Planning, the appointments has to be made by direct recruitment or by promotion from among the holders of the post of Junior Town Planning Expert re-designated as Assistant Director of Town Planning (Special) or from among the holders of the post of Junior Town Planner, re-designated as Assistant Director of Town and Country Planning. Accordingly, the petitioners were placed below the private respondents in the seniority list by reckoning the seniority of them from the date of their initial appointment under Rule 10(a)(1).



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

9. The learned counsel appearing for the petitioner restricted the prayer to the effect that the private respondents were already promoted and retired from their service. Therefore, the petitioners may be placed above the private respondents and promote them to the post of Deputy Director of Town and Country Planning and further promotion post in accordance with law.

10. A perusal of the counter filed by the second respondent and the submissions made by the learned Additional Advocate General appearing for the respondents 1 and 2 reveals that the private respondents are promotes, who were promoted to the post of Assistant Director from two categories i.e., Architectural Assistant/Planning Assistant and Supervisor. They were originally selected for the year 2006-2007 panel (crucial date 01.09.2005, panel period from 26.04.2006 to 25.04.2007). In the meanwhile, the Government, by its letter dated 05.07.2006, have approved the estimate of vacancy for the post of Assistant Director to fill up recruitment by transfer for the year 2006-2007 as 33. However, no panel was approved as against such vacancies due to the pendency of the writ petitions filed for awarding notional promotion with effect from 24.06.1999 for the post of Architectural Assistant/Planning Assistant, in which, this Court ordered Status-quo. Final orders were passed, finalizing the regularization and inter-se seniority between the departmental candidates and



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

the candidates appointed under 10(a)(1) of the Rules in the post of Architectural Assistants/Planning Assistants (diploma Vs degree holders) vide G.O.Ms.No.250, Housing and Urban Development (UD2-1) Department, dated 15.07.2005 and the proceedings of the Director of Town and Country Planning dated 07.08.2006. The Tamil Nadu Administrative Tribunal had ordered notional promotion only for the persons, who approached the Tribunal and the said order was also confirmed by this Court. Therefore, the incumbent whose names were included in the panel for the year 1998-1999 for the promotion to the post of Architectural Assistants/Planning Assistants. Subsequently, an interim order of status quo passed by this Court was modified to enable the respondents to pass orders in respect of filling up of the vacancies in the post of Assistant Director in accordance with law.

11. Thereafter, the Government had appointed Architectural Assistants. 33 incumbents from feeder category of Architectural Assistant/Planning Assistant and Supervisor/Draftman Grade III by following the ratio 3 : 1 between two categories of posts by invoking Rule 10(a)(1) of the Rules by relaxing of Rules 3(a) and 6(b) of the adhoc rule for the post of Assistant Director. Thereafter, the writ petitions were dismissed as withdrawn. The private respondents were promoted under Rule 10(a)(1) of the Rules. Temporary appointments as specified under Section 17(1) of the Tamil Nadu



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

Government Servants (Conditions of Service) Act, 2016 against the substantive vacancies were earmarked for recruitment by transfer. Therefore, they were regularized as per Section 28(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

12. The provision under Section 28(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which is extracted hereunder :

“If the post is one to which appointment may be made by transfer, and the person who had been appointed thereto either under sub-section(1) or sub-section (4) of Section 17 is subsequently recruited thereto by transfer and included in the list of approved candidates, the appointing authority may, in his discretion, allow such person to commence his probation, if any, from the date of his first temporary appointment or from such subsequent date, as the appointing authority may determine”.

13. Therefore, the direct recruitees, such as the petitioners in these writ petitions, cannot claim seniority from anterior date. They have not even born in the cader and were not holding any post in service at the time of adhoc promotion of the private respondents.



W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

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14. In view of the above, this Court finds no infirmity or illegality in the order passed by first respondent dated 07.02.2018. Thus, the writ petitions are devoid of merits and are liable to be dismissed. Accordingly, these Writ Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

.08.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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To

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Housing and Urban Development Department,
State of Tamilnadu, Fort St. George,
Chennai 600 009

2. The Secretary to Government,
P &AR Department,
State of Tamilnadu,
Fort St. George, Chennai 600 009

3. The Secretary,
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Frazer Bridge Road,
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G.K.ILANTHIRAIYAN. J.

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Pre-delivery order in



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W.P.Nos. 28926 of 2017, 5310 of 2018 & 9112 of 2020

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