



W.A(MD) No.1031 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 27.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.A(MD) No.1031 of 2020
and
C.M.P.(MD)Nos.5640 & 5648 of 2020

1.Muthu Vinayagam

2.P.Murugesan

3.P.Arockiya Brito

... Appellants / Petitioners

Vs

1.The Principal Secretary,
Commissioner of Revenue Administration,
Chepauk,
Chennai-600 005.

2.The District Collector,
Office of the Collectorate,
Dindigul District,
Dindigul.

3.The District Revenue Officer,
Dindigul District,
Dindigul.



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4.Prem Kumar
(R4 is impleaded vide order dated
22.07.2022 made in W.M.P.(MD)No.8030 of 2021
by this Court.)

5.G.Mahesh
(R5 is impleaded as per the order of this Court
dated 02.09.2024 made in C.M.P.(MD)No.2045 of 2024)

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying
this Court to set aside the order dated 18.09.2020 made in W.P.(MD)No.
12022 of 2020 and allow the above writ appeal.

For Appellants : Mr.S.Vinod Sathyazahar
for Mr.V.Panneer Selvam

For Respondents : Mr.R.Baskaran
Additional Advocate General
for R1 to R3
assisted by Mr.K.S.Selva Ganesan
Additional Government Pleader
: Mr.Lajapathi Roy
Senior Counsel
for Mr.Anandan for R4

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard the learned counsel for the appellants and the learned
Additional Advocate General for the Government and the learned senior
counsel for the private respondents.



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2. The appellants are the directly recruited assistants. They are serving in Dindigul District. They are aggrieved by the impugned letter No.ser 4(2)/16026/2017, dated 05.09.2020 issued by the Commissioner of Revenue Administration, Chepauk, Chennai. The said letter notes that pursuant to the direction given by the Hon'ble Division Bench in W.A. (MD)No.836 of 2018 on 30.08.2019, Special Rules for Tamil Nadu Ministerial Service were amended and the following proviso was added in Annexure-IX in Rule 9.

“provided that the inter-se-seniority of the persons appointed by direct recruitment and the persons appointed by promotion shall be prepared on 15th May of every year as per the cyclical order specified above”

The said letter also adds that when the inter-se-seniority list between the directly recruited assistants and the promotee assistants is prepared for the districts of Madurai, Theni, Pudukkottai and Dindigul, the reckoning date would be 15th May. The appellants herein have no quarreled as regards the amendment made to the service rules. They are aggrieved only by the retrospective application of the said amendment. According



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to the learned counsel for the appellants, when the amendment was made only in the year 2020, the said amendment can have application only from the date of amendment and the seniority lists of the past years cannot be redrawn by having the cut-off date as 15th May. With this prayer, the appellants filed W.P.(MD)No.12022 of 2020. The writ petition was disposed of on 18.09.2020 by recording the stand taken by the learned Additional Advocate General. Aggrieved by the same, this writ appeal has been filed.

3. The learned counsel for the appellants reiterated all the contentions set out in the memorandum of grounds of writ appeal. He pointed out that 15th March should be reckoned as cutoff date and not 15th May. We are not swayed by the said submission.

4. As rightly pointed out by the learned Additional Advocate General, as well as the learned senior counsel for the private respondents, this issue had already been settled by the Hon'ble Division Bench when this court disposed of the batch of writ appeals on 30.08.2019. In the said batch of writ appeals and writ petitions, inter- se seniority list of the



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aforementioned four districts was under challenge. While disposing of the same, the Hon'ble Division Bench directed the department to prepare the subject seniority list afresh. It also specifically mandated that while preparing the seniority list, it should not go either by calendar year or by fixing 15th March as the crucial date. The directions set out in paragraph 27 read as follows:-

“27.In the result, the Writ Appeal (MD)Nos.836, 892, 974 and 1683 of 2018 and W.P(MD)No.17169 of 2018 are disposed of as follows:-

(a) the orders impugned in the writ petitions are set aside and the matter is remitted back to the first respondent Government to make necessary amendments to the relevant rules indicating the date of preparing the seniority list by taking note of the observations and findings rendered supra.

(b) the preparation of seniority list in this case should not go either by calendar year or by fixing 15th March as the crucial date.

(c) such seniority list is to be prepared by giving a reasonable gap between the date of preparation of such list and date of preparation of panel for promotion.

(d) the inter se seniority of the direct recruit assistants shall be fixed by strictly following the cyclical order referred to under Clause 9 of Annexure IX of the Tamil Nadu Ministerial Service Rules.

(e) the first respondent Government thus shall pass appropriate orders making amendment to the rules as directed supra within a period of two months from the date of receipt of a copy of this order.



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(f) on the basis of the orders to be passed by the first respondent Government amending the rules, the authority concerned shall prepare the subject matter seniority list afresh accordingly within a period of four weeks thereafter.

(g) the seniority list as well as panel for promotion to the next higher post shall be prepared for every year without accumulating the same for years together.”

5. The learned Additional Advocate General also drew our attention to the observation made in Paragraph Nos.17 & 18. The said paragraphs read as follows:-

“17. Therefore, it is evident from the above said Rule 7 (a) of the Tamil Nadu Special Rules for Revenue Subordinate Service Rules, that crucial date for preparing the panel to the post of Deputy Tahsildar is 15th September of the year to which the list relates. Thus, it is to be noted at this juncture, as rightly pointed out by the appellants, that Rule 13-A of the Tamil Nadu Ministerial Service Rules, which deals with promotion to the post of assistants, cannot be taken as a relevant rule for preparing the seniority list among the assistants, who are appointed either by way of promotion or by direct recruitment. The date 15th March referred to under 13-A of the Tamil Nadu Ministerial Service Rules is referable to the crucial date for preparing panel for promotion to the post of assistants from the feeder category posts. Once the appointment is made to the post of assistants, either by way of promotion or by direct recruitment, application of Rule 13-A thereafter, cannot have any relevance for preparing the inter-se seniority list among the assistants of both categories, since the crucial date for preparing such inter-se seniority list



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is with an object and purpose. Needless to state that a seniority list is prepared only to prepare a consequential panel for promotion to the next higher post among the persons found in the seniority list, provided they satisfy the qualification criteria in all respects. It is not that all the persons who found their name in the seniority list are entitled for placement in the panel for promotion to the next higher post. On the other hand, though a seniority list is prepared, the consequential preparation of the panel for promotion to the next higher post, among the persons found in such seniority list, depends upon the candidates satisfying the qualification and eligibility criteria for promotion. Therefore, it is apparent that preparing a seniority list is undoubtedly is the first step before preparing a panel for promotion.

18. Keeping the above position in mind, we need to find out as to when exactly the inter-se seniority list among the assistants of both categories should be prepared. We have already pointed out that the next avenue of promotion from the post of Assistant is Deputy Tahsildar, for which the crucial date for preparing the panel is 15th September of the year to which the panel list relates. When such being the position, it is not correct on the part of the appellants to claim that inter-se seniority list has to be prepared as per calender year viz., as on first January of every year. When the panel for promotion to the post of Deputy Tahsildar fixes the crucial date as 15th September of the year, certainly a seniority list should be prepared among the assistants of both categories within a reasonable time just prior to the preparation of such panel. In our considered view it should neither first January, as claimed by the appellants, nor 15th March, as claimed by the respondents. On the other hand, the date of preparing the seniority list must have reasonable nexus to achieve the object of preparing such list.”



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6. When the Hon'ble Division Bench has already made it clear that 15th March cannot be the cut-off date, we fail to understand as to how the appellants can persist in maintaining the said request. We are of the view that interference with the order of the single Judge is not warranted. The writ appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S., J.) (R.P., J.)
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