



W.P.(MD).No.17098 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.17098 of 2024
and WMP(MD)Nos.14714 & 14716

1.G.Kumaresan
2.T.Uma
3.M.Raja

... Petitioners

Vs

1.The Secretary to Government,
Commercial Tax & Registration Department,
Secretariat,
Fort St.George,
Chennai- 600 009.

2.The Commissioner,
Commercial Tax Department,
Ezhilagam,
Chepauk, Chennai-600 005.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to fill up the post of Deputy Commissioner in the Respondent Department by promotion strictly in accordance with G.O.Ms.No.53 dated 09.02.2024 drawn in accordance with the law laid down by the Hon'ble Supreme Court in C.A.No.1454 of 1987 dated 10.02.1999 and judgment of the Hon'ble Division Bench in W.A.No.626 of 2020 dated 05.11.2020.



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For Petitioner : Mrs.Dhakshyini Reddy
Senior Counsel
for Mr.RM.Arun Swaminathan

For Respondents : Mr.J.K.Jeyaseelan
Government Advocate

ORDER

Heard Mrs.Dhakshyini Reddy, learned Senior counsel appearing on behalf of Mr.RM.Arun Swaminathan, learned counsel for the petitioner and Mr.J.K.Jeyaseelan, learned Government Advocate for the respondents.

2.This writ petition has been filed seeking direction to the respondents to fill up the post of Deputy Commissioner in the Respondent Department by promotion strictly in accordance with G.O.Ms.No.53 dated 09.02.2024 drawn in accordance with the law laid down by the Hon'ble Supreme Court in C.A.No. 1454 of 1987 dated 10.02.1999 and judgment of the Division Bench in W.A.No.626 of 2020 dated 05.11.2020.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.



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4. The petitioners were appointed as Assistant Commissioners through direct recruitment in the year 2016. As they have completed the probation they are qualified for promotion to the post of Deputy Commissioner. Various writ petitions have been filed earlier to fix the seniority between the promotees and the direct recruits in the department of commercial tax. However, the Hon'ble Supreme Court has laid down the law in C.A.No.1454 of 1987 on 10.02.1999 that only on occupation of a permanent post, the individual can claim seniority. Similarly placed persons like that of the petitioners and who are involved in W.A.No.626 of 2020 has got an order from the Division Bench on 05.11.2020 to the effect that the Government has to comply the earlier directions given by the another Division Bench of this Court in W.A.No.2527 of 2012 vide its order dated 28.07.2016 and to correct the mistakes in the existing seniority list. Subsequently, a part of the seniority list has been published based on the orders passed in W.A.No.626 of 2020 through G.O.Ms.No.53 dated 09.02.2024 in which the petitioners stand as seniors to the persons who have been given with the recent temporary promotions on 08.05.2024 vide G.O.Ms.No.72 dated 08.05.2024.



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5. The grievance of these petitioners is that the above temporary promotion was given only in order to honour the undertaking given during the contempt proceedings pending in Cont.P.No.926 dated 11.09.2024. Now the learned counsel for the petitioners submitted that despite proper seniority list has been arrived and it has been published, if the juniors to the petitioners are given with promotion, then the valuable rights of the petitioners will be affected. It is submitted that in the name of complying the earlier orders of this Court, if the juniors are promoted, that will only multiply the litigations. The petitioners had given representation on 18.07.2024 in this regard by raising their objections to the recent promotions.

6. However, Mr.J.K.Jeyaseelan, learned Government Advocate for the respondents submitted that the seniority list published in G.O.Ms.No.53 dated 09.02.2024 has been put to challenge. So long as the temporary promotion in the cadre of Deputy Commissioners given through G.O.Ms.No.41 dated 08.02.2024 is not challenged and set aside, the seniority so published will hold good. However, it is to be noted that the promotions given now to some individuals in order to honour the undertaking given during the contempt proceedings are only temporary promotions. Hence, it is for the respondents to



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appraise the present position before the contempt Court or another Court in order to avoid future litigations or confusions contrary to their own seniority list published in G.O.Ms.53 dated 09.02.2024.

7. With the above observation, this Writ Petition is **disposed of** and the respondents shall consider the representation of the petitioners dated 18.07.2024 and pass orders on its own merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. If the petitioners' rights are affected they are at liberty to work out their remedy before the respected forum.

25.07.2024
(2/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes
PJJ

To
1.The Secretary to Government,
Commercial Tax & Registration Department,
Secretariat,Fort St.George,
Chennai- 600 009.

2.The Commissioner,
Commercial Tax Department,
Ezhilagam,
Chepauk, Chennai-600 005.



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R.N.MANJULA, J.

PJL

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