IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-03-2025

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

WP No. 3262 of 2018

1.R.Perumal
2. C.Manohar
3. M.Muthu Manickam
4. T.Chitravelu
5. G.R.Boobalarayan
6. K.Ramu
7. S.Paranthaman
8. S.Kanagavel Manoharan
9. V.Thangaraj
10. S.Muthu
11. M.Jayakrishnan
12. V.Govindan
13. P.Viswasam
14. A.Raman

Petitioner(s)

Vs

1. State of Tamil Nadu
Rep. By the Secretary to Government
Commercial Taxes and Registration
Department,
Government of Tamil Nadu,
Fort St. George, Secretariat

Cehnnai – 09.

2.The Commissioner of Commercial Taxes,
Commercial Taxes Department
Government of Tamil Nadu
Ezhilagam, Chepauk,
Chennai – 600 009

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents herein to forthwith grant the arrears of Pay and allowances and all other benefits, including Pensionary Benefits, which are due and payable to the petitioners in the post of Assistant Commissioner, Commercial Taxes (now re-designated as Deputy Commissioner, Commercial Taxes), Deputy Commissioner, Commercial Taxes (now Joint Commissioner, Commercial Taxes) pursuant to the regular seniority list drawn vide (i) G.O.ms.No.116, CT & R (E1) Department dated 24.08.2012 (ii) G.O.Ms.No.139 CT & R (E2) Department dated 02.11.2012, (iii) G.O.ms.No.16 CT & R (E2) Department dated 27.02.2013 and (iv) G.O.Ms.No.70 CT & R (E2) Department dated 19.06.2013.

For Petitioner(s): Ms.A.L.Ganthimathi
Senior Counsel

For Respondent(s): Mrs.K.Vasanthamala
Governmen Advocate

ORDER

The writ petition has been filed directing the respondents to forthwith grant the arrears of Pay and allowances and all other benefits, including Pensionary Benefits, which are due and payable to the petitioners in the post of Assistant Commissioner, Commercial Taxes (now re-designated as Deputy Commissioner, Commercial Taxes), Deputy Commissioner, Commercial Taxes (now Joint Commissioner, Commercial Taxes).

2. The petitioners are the retired Assistant Commissioners who are working in various places of the State of Tamil Nadu. As per the refixation of the seniority in the light of the orders of the Hon'ble Supreme Court, some of the petitioners should have been promoted as Deputy Commissioner on and from 01.01.1989. The petitioners were not given the said promotion and other benefits so far. In this regard various litigations have been filed and the matter went up to the Hon'ble Supreme Court by way of filing a Contempt Application in C.P. (C.No.263/2007). After which the *inter se* seniority was prepared for 271 cadre posts through the proceedings dated 04.5.2009. As the parties to the contempt proceedings agreed with the seniority list, the contempt petition was disposed on 14.03.2009.

3. Due to subsequent events, the first respondent constituted a High Level Committee to examine the feasibility of filing curative petition before the

Hon'ble Supreme Court against the judgment rendered in C.A.No.1454/1987. In the meanwhile the writ petitions were filed by the individuals to revist the seniority list which has already attained finality. However, the High Court has already allowed the writ petitions. Subsequently, one Sundaramoothy filed a writ petition in W.P.No.13459/2017 to implement the directions of the Hon'ble Supreme Court and the Division Bench of this Court passed earlier in the matter of promotion. In the writ petitions filed in W.P.Nos.21808/2010, 6653/2015,also this Court has given directions to the respondent to consider and grant the pay arrears and other pensionary benefits to the petitioner.

4. Mrs.K.Vasanthamala, the learned Government Advocate appearing for the respondents, submitted that the individuals have filed writ petitions and contempt applications for initiating action for non complying the order. One such contempt petition has been filed in Cont.P.No.3056/2024 before this Court wherein the following order has been passed after taking into consideration of the subsequent developments:

" 2. From the typeset of judgements supplied by the learned counsel for the respondents, it appears that there are certain principles laid down to prepare the inter-se seniority and at least one order has been passed on 31.08.2016 by giving almost a quietus. Taking into consideration the orders passed by the Hon'ble Supreme Court dated 10.02.1999 in Civil Appeal No.1454/1987 which confirmed the judgement of this Court in W.P.No.12786/1985 dated 19.06.1986, based on the list produced. Thereafter an order dated 20.10.2008 has been passed in the contempt petition

(C).No.263/2007 in C.A.No.1454/1987.

3. In the said order dated 20.10.2008 a direction has been given to the State Government to publish a fresh seniority list in terms of the direction given in Civil Appeal No.1454/1987 dated 10.02.1999. Even though the learned counsel for the respondents submitted that the order has already been complied with and the list has been published on 04.05.2009, the said list was also challenged in WP.No.11618/2009 batch., and in which orders came to be passed on 06.04.2011 by dismissing the writ petition. The appeals filed before the Division Bench challenging the above order also dismissed on 31.08.2016 and 28.07.2016 respectively.

4. However, the appeal is said to be pending before the Hon'ble Supreme Court in SLP C.A.Nos.29486/2019 and 8087/2020 along with connected matters. Even though the subsequent division bench has passed an order on 05.11.2020 by giving liberty to the State government to prepare a provisional seniority list by reckoning only permanent posts in accordance with the general and special rules applicable by adopting four principles adopted by the Division Bench of this Court and affirmed by the Hon'ble Supreme Court in its order dated 10.02.1999 in C.A.No.1454/1987, the subsequent Division Bench of this court has passed an order on 20.11.2023 in WA.No.1100/2023 by reaffirming the validity of the order dated 28.07.2016 and 31.08.2016 made in W.A.Nos.2527/2012 and 2280/2011, respectively.

5. As on today, the seniority list has already been published in terms of the order of the Hon'ble Supreme Court dated 20.10.2008, which has been referred in the orders of the Division Bench dated 31.08.2016 remains unaltered or subject to the outcome of the SLPs that have been filed against these orders. It is up to the respondents either to consider the representation of the petitioner *in terms of the order dated 31.08.2016 however subject to the outcome of the alleged SLP pending, challenging the above order or to expedite the pending SLPs and then pass appropriate orders."*

5. Since the petitioners in this petition is also similarly placed as that of the petitioner in the above petition, I feel the same benefit is applicable to these petitioners also.

6. Accordingly, this writ petition is disposed in the same lines as that of the order passed in Contempt Petition No.3056/2024 dated 03.12.2024. No costs.

28.03.2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
bkn

To:

1. The Secretary to Government
Commercial Taxes and Registration Department,
Government of Tamil Nadu,
Fort St. George, Secretariat
Cehnnai – 09.

2.The Commissioner of Commercial Taxes,
Commercial Taxes Department
Government of Tamil Nadu
Ezhilagam, Chepauk,
Chennai – 600 009

R.N.MANJULA J.

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