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W.A.Nos.2393, 2394 & 2395 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 23-06-2025**

CORAM

**THE HONOURABLE MRS JUSTICE J. NISHA BANU  
AND  
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A.Nos.2393, 2394 & 2395 of 2022  
C.M.P.Nos.18393, 18391 & 18384 of 2022**

**W.A.No.2393 of 2022:**

1.Union Of India

Represented by Government of Puducherry,  
Chief secretariat, Puducherry 605 001.

2.The Chairman

DPC-(Non Teaching Staff),  
PEC-cum-Secretary to Government (Education),  
Chief secretariat, Government of Puducherry,  
Puducherry 605 001

3.The Secretary to Government

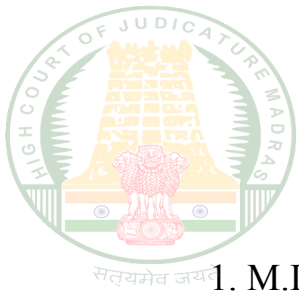
Department of Personnel and Administrative  
Reforms, (Personnel Wing), Chief Secretariat,  
Government of Puducherry, Puducherry 605 001

4.The Principal

Pondicherry Engineering College (P.E.C),  
Pillaichavady, Puducherry 605 014

Appellant(s)

Vs



W.A.Nos.2393, 2394 & 2395 of 2022

1. M.Issaivanan

S/O. (Late) K.Maduraimuthu,  
No.14, Mariamman Koil Street, Kalathumadu,  
Vinobanagar, Pondicherry 605 008

2.G.Murugesan,

Superintendent (Ad-hoc), Pondicherry Engineering College,  
Pillaichavady, Pondicherry-605 014.

3.R.Govindarajan (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

4.E.Mourougayane (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

5.L.Manjini (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

6.P.Parasuraman (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

7.S.Vengadesaperumal (Assistant)

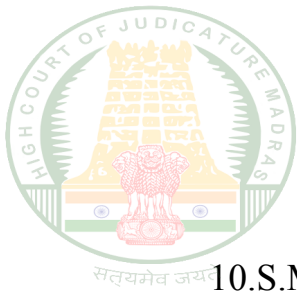
Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

8.N.Ramalingam (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

9.M.Ilangovan (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.



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10.S.Murthy (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

11.J.Govindarajulu (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

12.M.Tamilselvam (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

Respondent(s)

**W.A.No.2394 of 2022:**

1.The Chairman-cum-Secretary to Government  
(Education), Staff Selection (Non-Teaching)  
Committee, Puducherry Engineering College,  
Puducherry 605 014.

2.The Principal  
Pondicherry Engineering College, Pillaichavady,  
Puducherry 605 014

Appellant(s)

Vs

M.Issaivanan,  
S/O. (Late) K.Maduraimuthu,  
No.14, Mariamman Koil Street, Kalathumadu,  
Vinobanagar, Pondicherry 605 008

Respondent(s)



W.A.Nos.2393, 2394 & 2395 of 2022

**W.A.No.2395 of 2022:**

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1.The Chairman-cum-Secretary to Government  
(Education), Staff Selection (Non-Teaching)  
Committee, Puducherry Engineering College,  
Puducherry 605 001.

2.The Secretary to Government  
Department of Personnel and Administrative  
Reforms, (Personnel Wing), Chief Secretariat,  
Government of Puducherry, Puducherry 605 001

3.The Principal  
Pondicherry Engineering College, Pillaichavady,  
Puducherry 605 014

Appellant(s)

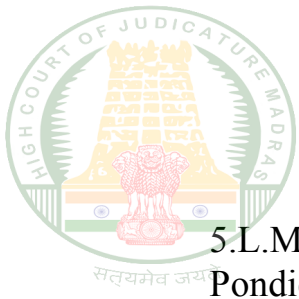
Vs

1. M.Issaivanan  
S/O. (Late) K.Maduraimuthu,  
No.14, Mariamman Koil Street, Kalathumadu,  
Vinobanagar, Pondicherry 605 008

2.G.Murugesan,  
Superintendent (Ad-hoc), Pondicherry Engineering College,  
Pillaichavady, Pondicherry-605 014.

3.R.Govindarajan (Assistant)  
Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

4.E.Mourougayane (Assistant)  
Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.



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5.L.Manjini (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

6.P.Parasuraman (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

7.S.Vengadesaperumal (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

8.N.Ramalingam (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

9.M.Ilangovan (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

10.S.Murthy (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

11.J.Govindarajulu (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

12.M.Tamilselvam (Assistant)

Pondicherry Engineering College, Pillaichavady,  
Pondicherry-605 014.

Respondent(s)



W.A.Nos.2393, 2394 & 2395 of 2022

**Prayer in W.P.No.2393 of 2022:**

Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order dated 05.10.2021 passed in W.P.No.33089 of 2013 on the file of this Court.

**Prayer in W.P.No.2394 of 2022:**

Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order dated 05.10.2021 passed in W.P.No.28484 of 2014 on the file of this Court.

**Prayer in W.P.No.2395 of 2022:**

Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order dated 05.10.2021 passed in W.P.No.33301 of 2014 on the file of this Court.

For Appellant(s)  
in all cases:

Mr.R.Syed Mustafa  
Special Government Pleader  
(Puducherry)

For R1 in all cases: Mr.D.Sreenivasan

**JUDGMENT**

(Made by M.Jothiraman J.)

Intra-court appeals have been preferred challenging the common order dated 05.10.2021 passed in W.P.Nos.33089 of 2013, 28484 & 33301 of 2014.



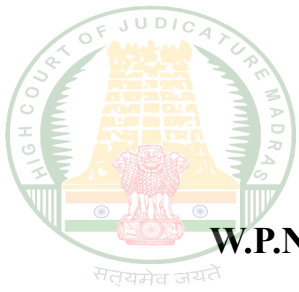
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2. The writ petitioner viz. Issaivanan was originally engaged as a daily rated NMR in Pondicherry Engineering College with effect from **01.11.1984** and he was regularized as Helper with effect from 01.08.1987 and promoted as Attender with effect from 14.02.1994. Thereafter, he was promoted as Lower Division Clerk (LDC) with effect from 23.05.1996 and Upper Division Clerk (UDC) with effect from 31.10.2001 and Assistant with effect from 23.02.2006.

3. The writ petitioner has filed the aforesaid writ petitions for the following reliefs:

**W.P.No.33089 of 2013:**

*“for issuance of Writ of Certiorarified Mandamus, to call for the records relating to Lr.No.PEC/Estt./E7/2013/2608 dated 06.08.2013 issued by the 4th respondent and quash the same and further direct the 4th respondent to pay the arrears for the period from 16.02.2006 to 08.12.2009 and to issue revised order promoting the petitioner with effect from 16.02.2006 instead of 23.02.2006 based on the decision of the DPC meeting held on 09.12.2009.”*



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**W.P.No.28484 of 2014:**

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*“for issuance of Writ of Mandamus, directing the 2nd respondent to act on the counter affidavit dated 06.10.2010 (Para 17(b) and (c)] filed by them in WP No.38340/2006.”*

**W.P.No.33301 of 2014:**

*“for issuance of Writ of Mandamus, directing the respondents to revise the seniority list dated 21.02.2011 in Lr.No.PEC/Estt/E4/Seniority/2010/671.”*

4. The writ petitioner had filed a writ petition in W.P.No.38340 of 2006 to promote him as UDC retrospectively with effect from 06.07.2000. According to the writ petitioner, he was not given retrospective promotion as LDC with effect from **25.06.1993** and UDC with effect from 23.05.2001. Therefore, he has filed a writ petition in W.P.No.28484 of 2014 for implementation of promotion as per the counter affidavit dated 06.10.2020 filed in W.P.No.38340 of 2006.

5. This Court, by a common order dated 05.10.2021, has observed as follows:



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*“20.From a simple perusal of the seniority list dated 21.02.2011, it is seen that even though the petitioner was promoted with effect from 23.02.2006, his date of promotion was shown as 09.12.2009. Had he been promoted notionally with effect from 16.02.2006, he would not have been ranked below the said G.Murugesan and would have been filled at seventh roster point in the roster of seniority. As per the roster point, seventh point goes to Scheduled Caste category. In that event, the petitioner by following the rule of reservation would have got promotion earlier than G.Murugesan.*

*21.Therefore, considering the totality of the circumstances and the failure on the part of the respondents and also the considering the factum that inasmuch as the Government has ignored the length of service of the candidates and departed from the principle of seniority of candidates who served in the same cadre while drawing up of the list of eligible candidates, and that it has committed a mistake that needs to be corrected, a direction is given to the official respondents to ratify the mistakes and accord promotion to the petitioner taking into account his date of promotion as Attender as 01.08.1987 and LDC with effect from 25.06.1993 and further promotions on par with his juniors and revise the seniority at all levels on par with his immediate junior G.Murugesan and consequently, promote*



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*him on par with his junior G.Murugesan and disburse all other attendant and monetary benefits in accordance with law within a period of three months from the date of receipt of a copy of this order.”*

6. Aggrieved by the order of the learned Single Judge, these writ appeals have been filed by the appellants herein.

7. The learned Special Government Pleader (Puducherry) appearing for the appellants would submit that with regard to the claim made by the writ petitioner that he has been promoted with effect from 25.03.1993 by relaxing typewriting test is not acceptable, since the said issue has attained finality in the earlier round of litigation initiated by the writ petitioner in W.P.No.38340 of 2006, in which, a learned Single Judge, by order dated 12.03.2012, rejected his claim. He would further submit that the promotion of writ petitioner to the post of LDC in the year 1993 was by way of Limited Department Competitive Examination (LDCE) and not promotion by seniority and that the writ petitioner participated in LDCE, scored 9/100 as against the reserved slot and failed. Therefore, the writ



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petitioner suppressed the above material facts by misleading the Court and got an order in his favour. Further, he would submit that the qualification of a junior viz. G.Murugesan and his marching over the writ petitioner was by the process of merit through the method of LDCE and not by virtue of seniority. Therefore, the seniority impugned in the writ petition was incommence with the recruitment rules and regulations governing the principle of seniority and as well as taking into account the date of appointment in every feeder cadre.

8. *Per contra*, the learned counsel appearing for the writ petitioner would submit that the writ petitioner had joined as NMR on 01.10.1984 and regularized as Helper [Group-D] with effect from 01.08.1987. He would further submit that the writ petitioner was not recategorized/promoted even though 21 Helpers, who were junior to him were recategorized/promoted as Attender retrospectively and at that point of time, there were no recruitment rules for the post of Attender [Group-D] and the writ petitioner was the only Scheduled Caste candidate holding the post of Helper. He would also submit that out of 21 persons, 12 persons who



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were holding the post of Attender were promoted as LDC with effect from 25.06.1993 and after promoting them, Pondicherry Engineering College issued a Circular dated 19.08.1993 stating that the governing body had decided to modify the recruitment rules for the post of LDC for conducting LDCE. He would further submit that Pondicherry Engineering College issued an Office Order dated 09.02.2001 by giving retrospective promotion to the writ petitioner to the post of Attender with effect from 01.08.1987 with consequential benefits and it has come out with a new seniority list of Attenders dated 18.08.2021, wherein, the writ petitioner was shown as the senior most person in Sl.No.1 and the said G.Murugesan at Sl.No.7. Further, he would submit that therefore, by virtue of seniority, he had been entitled to get promotion to the higher post and as per the roster point, seventh point goes to the Scheduled Caste category and in the event of following the rule of reservation, the writ petitioner would have got promotion earlier to G.Murugesan. He would therefore submit that the common order passed by the learned Single Judge is well reasoned and there is no infirmity to interfere with the same.



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**WEB COPY** 9. We have considered the submissions made the learned counsel on either side and perused the materials available on record.

10. It is not in dispute that the writ petitioner was appointed as a daily rated employee on **01.11.1984** and he was appointed as Helper on 01.08.1987 and thereafter, he was confirmed in the post of Helper on 14.09.1987 and he was promoted as Attender on 14.02.1994; he was promoted as LDC on 23.05.1994 with a condition to qualify typewriting examination within a period of two years, failing which, his promotion will be reverted, pursuant to which, he has completed the same; thereafter, he was retrospectively and notionally promoted as UDC with effect from 31.10.2001 and substantially with effect from 11.09.2006. It is also not in dispute that the writ petitioner was promoted as Assistant with effect from 23.02.2006 and substantially with effect from 09.12.2009. Pondicherry Engineering College, Pondicherry, issued an office order dated 18.09.2006 in Estt/E4/2006/No.895, which reads as follows:



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**“PONDICHERRY ENGINEERING COLLEGE  
PONDICHERRY**

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**18.09.2006**

**OFFICE ORDER**

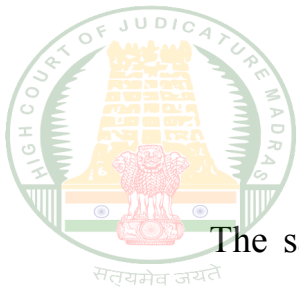
*Sub: PEC – Issue of revised order – Reg.*

*Ref: This college O/O No.PEC/Estt/E.4/2006/4699  
dated 11.09.2006*

*In accordance with the recommendation of the review DPC (N.T) meeting held on 10.08.2006, Thiru.M.Issaivanan UDC is deemed to be promoted as UDC notionally with effect from 31.10.2001 and substantially with effect from 11.09.2006.”*

11. It is seen from the typed set of papers that the writ petitioner had preferred a writ petition in W.P.No.38340 of 2006 seeking for the following relief:

*“To issue a writ of Certiorarified Mandamus to call for the records in connected with the proceedings issued in PEC/Estt/E4/2006 No.895 dated 18.09.2006 passed by the second respondent and quash the same and consequently direct the respondents to promote the petitioner as Upper Division Clerk retrospectively from 06.07.2000.”*



The said writ petition was disposed of on 12.03.2012 with the following

WEB.COM observation:

“2. The only grievance of the petitioner is that even though, he was given notional promotion from 31.10.2001, he ought to have been given the promotion with effect from 06.07.2000. But, on a perusal of the impugned order, it is seen that in the review Departmental Promotion Committee (Non-Teaching Staff) meeting held on 10.08.2006, the petitioner is stated to be deemed to be promoted as Upper Division Clerk notionally with effect from 31.10.2001 and substantially with effect from 11.09.2006. Therefore, the Office Order clearly specifies the date of notional promotion along with the date of substantial posting also. Therefore, the grievance of the petitioner challenging the impugned order as claimed in the Writ Petition is not maintainable.

3. At this juncture, learned counsel for the petitioner would only request that since his juniors, who were similarly placed were also given promotion, he may be permitted to make a representation. It is always open to the petitioner to make a representation so as to bring to the notice of the authorities concerned, if his juniors, who were similarly placed were given promotion or any other persons were given promotion even prior to this. When such a representation is



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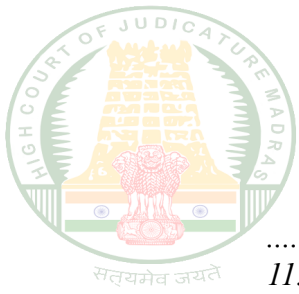
*made, suffice to state that the respondents shall consider the same and pass orders, on merits and in accordance with law. Insofar as the prayer in the Writ Petition challenging the impugned order is concerned, the same is negatived. This Writ Petition is closed. Consequently, connected M.P.Nos.1 & 2 of 2006 are closed. There will be no order as to costs.”*

12. In view of the above order, the issue has attained finality insofar as the promotion of writ petitioner as UDC notionally with effect from 31.10.2001 and substantially with effect from 11.09.2006, thereby, the main relief seeking to quash the proceedings dated 18.09.2006 itself negatived.

13. It is relevant to refer the Recruitment Rules for the post of Lower Division Clerk (LDC):

*“RECRUITMENT RULES FOR THE POST OF LOWER DIVISION CLERK*

|                                                                             |   |                                                                                                                                             |
|-----------------------------------------------------------------------------|---|---------------------------------------------------------------------------------------------------------------------------------------------|
| <i>1. Name of the post</i>                                                  | : | <i>LOWER DIVISION CLERK</i>                                                                                                                 |
| .....                                                                       |   |                                                                                                                                             |
| <i>8. Educational and other qualification required for direct recruits.</i> | : | <i>H.S.C. Passed. Typewriting Lower in English and Tamil Desirable: Experience in Colleges/Higher Institutions/ Government Departments.</i> |



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.....  
11. Method of recruitment whether : By promotion-60%  
by direct recruitment or by By limited competitive  
promotion or by deputation/transfer examination – 20%  
and percentage of the vacancies to By direct recruitment-20%  
be filled by various methods. ”

14. The finding of the learned Single Judge that the writ petitioner should have been promoted with effect from 25.03.1993 by relaxing the typewriting test in unfounded for the reason that the said issue had attained finality in the earlier round of litigation initiated by the writ petition in W.P.No.38340 of 2006 by order dated 12.03.2012 rejecting his claim. It is pertinent to mention that the promotion of the writ petitioner to the post of LDC in the year 1993 was by way of LDCE and not by seniority.

15. The learned Single Judge overlooked the factum of qualification of the junior G.Murugesan and his marching over the respondent was by the process of merit through the method of LDCE and not by virtue of seniority. It is apropos to mention that the post of LDC is a selection post and that merit is also a criteria for promotion and merit is the only criteria through LDCE promotion.



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16. This Court is of the view that the promotion offered to the first respondent/writ petitioner in accordance with the recruitment rules to the post of UDC notionally with effect from 31.10.2001 and substantially with effect from 11.09.2006 by proceedings dated 18.09.2006 has become final.

17. We are of the view that the order of the learned Single Judge is unsustainable and the same is liable to be set aside.

Accordingly, these writ appeals are allowed by setting aside the common order dated 05.10.2021 passed in W.P.Nos.33089 of 2013, 28484 & 33301 of 2014. No costs. Connected C.M.Ps. are closed.

**(J.N.B., J.) (M.J.R., J.)**  
**23-06-2025**

nsd  
Index:Yes  
Speaking Order  
Internet:Yes  
Neutral Citation:Yes



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**J.NISHA BANU J.  
AND  
M.JOTHIRAMAN J.**

nsd

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