



W.P.Nos.339 & 7076 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2025

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CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.339 & 7076 of 2011

W.P.No.339 of 2011

1. K.Senthil
2. B.Devi Meena
3. P.Sathyavel
4. V.Chinnaia
5. P.Manimegalai
6. I.Shakila Devi
7. C.R.Thenmozhi
8. W.Raja
9. K.Ayyasamy ... Petitioner(s)

Vs.

1. The Secretary to Government,
Highways & Minor Ports Department,
Fort St.George, Chennai – 9.
2. The Director General (Highways),
Chepauk, Chennai – 5.
3. L.R.Sundarajan



W.P.Nos.339 & 7076 of 2011

4. G.Jayakumar
5. R.Sathyaseelan
6. P.Selvakumar
7. S.K.Periyasamy
8. M.Subramani
9. G.Lalitha
10. V.Paulraj
11. G.Subramanian
12. K.Paneerselvam
13. K.Muthukumar
14. R.Jeyabalan
15. M.Sivakumar
16. K.Thanikasalam
17. A.Rangasamy
18. S.Ravichandran
19. R.Sumathi
20. K.Raja
21. M.Dellibabu
22. S.Senthil
23. D.Chandramohanraja
24. S.Chowthri
25. S.Raja
26. T.S.R.Madhavan

... Respondent(s)

[R22 to R26 impleaded vide order dated 11.07.2025 made
in W.M.P.No.14046/ 2019 in W.P.No.339/ 2011]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue
a Writ of Certiorarified Mandamus, calling for the records in pursuant to the

Page 2 of 18



W.P.Nos.339 & 7076 of 2011

impugned classified seniority list issued by the second respondent in Memo No.Nir.3(1)/ 9270/2007 dated 08.11.2010 and the consequential promotion orders issued in proceedings Sae.Mu. Order No.Nir3(1)/1224/2010 dated 30.11.2010 and in proceedings Sae.Mu.Order No:Nir3(1)/1224/2010 dated 01.12.2010 and quash these orders and direct the respondents 1 and 2 to promote the petitioners to the post of Superintendents in accordance with the original seniority list dated 01.04.2004 and the establishment list dated 17.08.2009 with all consequential and monetary benefits.

For Petitioner(s) : Mr.R.Subburaj

For R1 to R4 : Mr.K.H.Ravikumar,
Government Advocate

For R5 to R21 : Mr.P.Mohan Raj

For R22 to R26 : Ms.Dakshayani Reddy, Senior Counsel
for Mr.S.Gajendran

W.P.No.7076 of 2011

1.P.Pitchaiappan

2. K.B.Raman

3. A.Shahjahan

4. M.Nagendran

5. Y.S.Anbuchelvan ... Petitioner(s)

Vs.

1. State of Tamil Nadu,
Rep. by Secretary to Government,
Highways & Minor Ports Department,
Fort St. George, Chennai – 600 009

2. The Secretary to Government,
P & AR Department, Fort St.George,



W.P.Nos.339 & 7076 of 2011

Chennai – 600 009.

3. The Director General,
Highways, Chepauk,
Chennai – 600 005.

4. S.Senthil

5. A.Dhamotharan

6. P.Kumaresan

7. M.Krishnan

8. S.Srinivasan

9. N.Rajendran

10. M.Manivannan

11. R.Sathyaseelan

12. G.Subramanian

13. S.Vathchaladevi

14. K.Muthukumar

15. K.Pannerselvam

16. S.Sivakumar

17. R.Jeyabalan

18. M.Subramani

19. M.Sivakumar

20. P.Selvakumar

21. K.Thanikachalam

22. A.Rangasamy

23. S.Ravichandran

24. R.Sumathy

25. K.Raja



W.P.Nos.339 & 7076 of 2011

26. M.Dillibabu

27. A.Beeran

28. M.K.Madhangopal

29. R.Senthilmurugan

30. V.Paulraj

31. S.Dharmalingam

32. G.Lalitha

33. L.K.Periasamy

34. N.Kumar

35. Senthil Vadivel

36. C.Ashokkumar

37. E.Arokiyasamy

38. P.Thamilselvi ... Respondent(s)

[R4 to R38 impleaded vide order dated 11.08.2011
made in M.P.No.3 of 2011 in W.P.No.7076 of 2011]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the proceedings in Memorandum of the third respondent dated 08.11.2010 and the consequential orders of promotion made in Proceedings in No.Nir 3(1)/1224/2010 dated 30.11.2010 and Proceedings No. Nir 3(1) 1224/2010 dated 01.12.2010 and quash all the said proceedings dated 08.11.2010, 30.11.2010 and 01.12.2010 of the official respondents and consequently direct the respondents to promote the Assistants as Superintendents based on their seniority viz., the date of appointment as Assistants.

For Petitioner(s)	: Mr.A.Jeenasenan
For R1 to R3	: Mr.K.H.Ravikumar,
	Government Advocate



W.P.Nos.339 & 7076 of 2011

COMMON ORDER

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The issue that arise for consideration in both these writ petitions is one and the same and as such, they are taken up for consideration together and are being disposed of by this common order.

2.1. All the petitioners herein and the private respondents are all the persons who were initially appointed as 'Junior Assistant' in the Tamil Nadu Ministerial Service on compassionate grounds. The next promotional avenue from the post of 'Junior Assistant' is the post of 'Assistant' in the Tamil Nadu Ministerial Service. The petitioners in both the writ petitions were promoted to the post of 'Assistant', after they had acquired all the requisite qualifications and passing of the requisite tests during the years 2001-2007. Whereas the private respondents are all the persons who were also initially appointed as 'Junior Assistant' and then promoted to the post of 'Assistant' during the years 2002-2008. The seniority list in the cadre of 'Assistant' was drawn by the respondents on 17.08.2009 vide proceedings bearing குறிப்பாணை எண். நிர்.4(1)/45140/2008 dated 17.08.2009. The said seniority list/ establishment list was prepared taking into consideration the date of promotion/ joining of the respective candidates in the post of 'Assistant'. However,



thereafter, on the ground that some of the Assistants had raised objections about their position in the seniority list, respondents 1 and 2 claim to have drawn the panels for the years 1997-1998 to 2007-2008, adjusting the petitioners as well as the private respondents during different panel years through different proceedings dated 06.10.2010.

2.2. It was thereafter, the Respondent No.2 issued the impugned Memo bearing குறிப்பாணை எண். நிர்.3(1)/9270/2007 dated 08.11.2010 proposing to revise the seniority list in the cadre of 'Assistant' as on 01.11.2010 in terms of the panels drawn on 06.10.2010. All the petitioners herein were placed in a disadvantageous position when compared to their status in the establishment list dated 17.08.2009. Though an opportunity was afforded to the petitioners and others who were similarly situated through the impugned memo dated 08.11.2010 to raise their objections, soon thereafter, the respondents 1 and 2 issued different orders promoting 103 Assistants as 'Superintendents' by duly following the seniority as proposed through memo dated 08.11.2010. All the petitioners herein claim to have raised their objections in response to the memo dated 08.11.2010, objecting to their placement in the said seniority list. However, no orders were passed either considering or rejecting the objections raised by the petitioners, nor there was any



W.P.Nos.339 & 7076 of 2011

final seniority list that was published by the respondents 1 and 2. Under those circumstances, the petitioners in both the writ petitions have approached this court by duly challenging the memo dated 08.11.2010 and the consequential promotion orders issued in favour of the private respondents herein through other impugned proceedings.

2.3. A perusal of the impugned memo dated 08.11.2010 and the seniority list appended thereto discloses that the respondents 1 and 2 have not taken into consideration the date of promotion/ joining of the respective candidates in the post of 'Assistant'. On the other hand, the said Seniority List appended to the impugned proceedings dated 08.11.2010 would disclose that the candidates who were promoted subsequent to the petitioners herein as 'Assistants' have been placed above the petitioners.

3. The respondents 1 and 2 filed a counter-affidavit contending that when the establishment/ seniority list dated 17.08.2009 was published, some of the 'Assistants' have raised objections and, therefore, on considering the objections, the respondents have drawn the year-wise panels for the years 1997-1998 to 2008-2009 through proceedings dated 06.10.2010, and the impugned seniority list dated



W.P.Nos.339 & 7076 of 2011

08.11.2010 was prepared in terms of the said panels drawn through the proceedings dated 06.10.2010, though the date of promotion of the respective candidates to the post of 'Assistant' was not altered.

4. It is further stated that the private respondents herein, who were appointed to the post of 'Junior Assistant' ahead of the petitioners herein on compassionate grounds and had also passed the requisite tests for being eligible for consideration for promotion to the posts of 'Assistant', but their cases were not considered for promotions to the post of 'Assistant' as their services in the post of 'Junior Assistant' were not regularized by the date of promotion of the petitioners herein to the post of 'Assistant'. It is also stated that the services of the private respondents herein in the post of 'Junior Assistant' were subsequently regularized with retrospective effect i.e., from the date of their appointment to the said post, and their probation was also, accordingly, declared with retrospective effect. Thus, it is contended that the private respondents herein were deprived of consideration of their case for promotion to the post of 'Assistant' though they are fully qualified for such promotion much prior to the petitioners herein, and their cases were not considered for want of regularization of their services in the post of 'Junior Assistant'. According to the counter, the delay in regularizing the services of the private



W.P.Nos.339 & 7076 of 2011

respondents in the post of 'Junior Assistant' was due to administrative reasons.

Thus, it is contended that the private respondents are all the persons, who were appointed to the post of 'Junior Assistant' much prior to the petitioners and they also became qualified for promotion to the post of 'Assistant' ahead of the petitioners herein, and therefore, the respondents have tried to justify their action in conferring seniority on the private respondents in the post of 'Assistant' ahead of the petitioners herein.

5. Heard Mr.R.Subburaj, learned counsel for the petitioners in W.P.No.339 of 2011, Mr.A.Jeenasenan, learned counsel for the petitioners in W.P.No.7076 of 2011, Mr.K.H.Ravikumar, learned Government Advocate appearing for the respondents 1 to 4 in W.P.No.339 of 2011 and for the respondents 1 to 3 in W.P.No.7076 of 2011, Mr.P.Mohan Raj, learned counsel for the respondents 5 to 21 in W.P.No.339 of 2011 and Ms.Dakshayani Reddy, learned Senior Counsel appearing for the respondents 22 to 26 in W.P.No.339 of 2011.

6. There is no dispute on the factual aspects as already noted hereinabove. The private respondents herein are all seniors to the petitioners in the cadre of 'Junior Assistant'. It is also not in dispute that the private respondents have passed



W.P.Nos.339 & 7076 of 2011

all the relevant tests for being eligible for promotion to the post of 'Assistant' ahead of the petitioners herein. However, their cases were not considered for promotion to the post of 'Assistant' as their services in the post of 'Junior Assistant' were not regularized due to administrative reasons. Their services were, admittedly, regularized with retrospective dates subsequently. However, in the meanwhile, the petitioners herein, who were all juniors to the private respondents in the cadre of 'Junior Assistant', have all become eligible for promotion to the post of 'Assistant' and were accordingly promoted to the post of 'Assistant'. They joined duty and have been working in the said post since then. After the regularization of services of the private respondents in the post of 'Junior Assistant', their cases were also considered for promotion to the post of 'Assistant' and they were also accordingly promoted on different dates, though subsequent to the promotion of the petitioners herein.

7. No doubt, all the promotions were effected to the post of 'Assistant' while promoting the petitioners as well as the private respondents without drawing the year wise panels with reference to the eligibility of the candidates as on the crucial date of the respective panel years. But, all the promotion orders issued in favour of the petitioners as well as the respondents remained unchallenged, and they were



W.P.Nos.339 & 7076 of 2011

accepted by the respective parties, and they have been working as 'Assistants'.

Though the respondents 1 and 2 claim to have drawn year wise panels through proceedings dated 06.10.2010 for the years 1997-1998 to 2007-2008, duly placing the 'Junior Assistant' with reference to the date of their eligibility as on the crucial date of the relevant panel year, no consequential orders of promotion were issued altering the date of promotion of the petitioners as well as the private respondents. But the respondents, without changing the date of promotion of the petitioners as well as the private respondents, issued the impugned memo dated 08.11.2010, changing their seniority in the post of 'Assistant' and placing them by taking into consideration the panels drawn through proceedings dated 06.10.2010.

8. The seniority in the post of 'Assistant' can be drawn in terms of Rule 35 of the Tamil Nadu State and Subordinate Service Rules, only by taking into consideration the date of entry into service and the position assigned to them by the appointing authority while appointing them to the post of 'Assistant'. The impugned seniority list dated 08.11.2010 was not prepared in accordance with the date of their appointment to the post of 'Assistant', but was prepared basing upon the panels that were stated to have been drawn through proceedings dated 06.10.2010 for the years 1997-1998 to 2007-2008. Unless and until appropriate



W.P.Nos.339 & 7076 of 2011

consequential proceedings are issued altering the date of promotion of the petitioners as well as private respondents to the post of 'Assistant', after affording them an opportunity, the question of preparing the seniority list taking into consideration the panels drawn through proceedings dated 06.10.2010 does not arise. Mere drawing up of panels is of no consequence unless and until appropriate consequential proceedings were issued duly changing the date of promotion of the respective parties.

9. In the instant case, though the respondents 1 and 2 claim to have drawn panels through proceedings dated 06.10.2010, they have admittedly not issued any consequential proceedings altering the date of promotion of the petitioners as well as the private respondents. The date of promotion of the petitioners as well as private respondents has remained unaltered. Therefore, the respondents 1 and 2 are under an obligation to prepare the seniority list in the cadre of 'Assistant' by taking into consideration the date of entry of the respective candidates into the cadre of 'Assistant', and not otherwise.

10. As already noted above, a perusal of the impugned seniority list annexed to the impugned memo dated 08.11.2010 would disclose that persons who were



W.P.Nos.339 & 7076 of 2011

promoted to the post of 'Assistant' on a later date were placed above the candidates who were promoted to the post of 'Assistant' earlier. The preparation of such a seniority list is unknown to the service jurisprudence.

11. No doubt, there appears to be some injustice caused to the private respondents because of the delay in regularization of their services in the post of 'Junior Assistant', which is stated to be because of the administrative reasons, resulting in consideration of their cases for promotion to the post of 'Assistant' much later to the date of consideration of their juniors for promotion to the post of 'Assistant'. In case, if the respondents 1 and 2 intend to rectify or undo the said injustice, it is always open for the respondents 1 and 2 to take appropriate steps in accordance with law.

12. Though the respondents 1 and 2 appears to have initiated such proceedings by issuing proceedings dated 06.10.2010, duly drawing year-wise panels for promotion to the post of 'Assistant' from the post of 'Junior Assistant' etc., they have not taken the said proceedings to their logical end. In the absence of any conclusion of such proceedings, by duly putting all the affected parties on notice, the seniority in the post of 'Assistant' cannot be altered at the whims and



W.P.Nos.339 & 7076 of 2011

fancies of the respondents 1 and 2. In the circumstances, the impugned establishment/ seniority list issued under memo dated 08.11.2010 cannot be sustained.

13. Further, as already noted above, the impugned seniority list is only a provisional list. The respondents 1 and 2, without even issuing a final seniority list duly considering the objections raised by the respective affected parties, proceeded to effect promotions from the post of 'Assistant' to the post of 'Superintendent' immediately after the issuance of the impugned memo dated 08.11.2010 i.e., through proceedings dated 30.11.2010 and 01.12.2010 etc., which are also impugned in the present writ petitions. As the impugned memo dated 08.11.2010 is found to be not in accordance with law, the same is liable to be quashed and the same is accordingly is quashed. Consequently, the consequential promotion orders which are impugned in the present writ petitions are also liable to be quashed and accordingly, they are also quashed.

14. Accordingly, both these writ petitions are allowed, directing the respondents 1 and 2 to take steps to effect promotions to the post of 'Superintendent' duly following the seniority list dated 17.08.2009 issued in



W.P.Nos.339 & 7076 of 2011

proceedings bearing குறிப்பாணை எண். நிர.4(1)/45140/2008 dated 17.08.2009,

duly considering the case of the petitioners as well as the private respondents and other similarly situated persons and conclude the entire exercise, as expeditiously as possible, at any rate within a period of three months from the date of receipt of a copy of this order.

15. However, it is made clear that, in case if the respondents 1 and 2 intends to rectify the injustice, if any, that is caused to the private respondents, it is open for them to take appropriate steps strictly in accordance with law by duly affording opportunity to all the affected parties. No costs. Connected miscellaneous petitions, if any, shall stand closed.

05.08.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Government, Highways & Minor Ports Department,
Fort St.George, Chennai – 9.



W.P.Nos.339 & 7076 of 2011

2. The Director General (Highways), Chepauk, Chennai – 5.

3. Secretary to Government of Tamil Nadu,
Highways & Minor Ports Department,
Fort St. George, Chennai – 600 009

4. The Secretary to Government,
P&AR Department, Fort St.George,
Chennai – 600 009.

5. The Director General, Highways,
Chepauk, Chennai – 600 005.



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W.P.Nos.339 & 7076 of 2011

MUMMINENI SUDHEER KUMAR, J.

skr

W.P.Nos.339 & 7076 of 2011

05.08.2025