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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2025

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.5287 of 2025
and
W.M.P.Nos.5862 and 5863 of 2025

1.M.Dillibabu
2.R.Thanigaimalai ... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Finance Department,
Fort St.George,
Secretariat, Chennai-600 009.

2.The Commissioner,
Treasuries and Accounts Department,
IIIrd Floor, Perasiriyar K. Anbazhagan Maligai,
Nandanam,
Chennai-600 035.

3.The Additional Director (Admin),
Treasuries and Accounts Department,
IIIrd Floor, Perasiriyar K. Anbazhagan Maligai,
Nandanam, Chennai-600 035.

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4.The Treasury Officer,
District Treasury,
Kanchipuram,
Kanchipuram District.

5.Tamil Nadu Public Service Commission,
Rep.by its Secretary,
Broadway,
Chennai-600 003. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to grant notional promotion to the petitioners for the post of Accountants on par with their Juniors who have been promoted of the year 2014-2015 and consequently direct the respondents to restore original seniority of the petitioners and include their name in the appropriate place for panel of Accountants so as to enable them to get further promotion as Superintendent on par with their juniors with all service benefits.

For Petitioners	:	Mr.R.Jothimanian
For Respondents	:	Mr.Azizulla Khan, Government Advocate [R1 to R4]
		Mr.R.Bharanidharan Standing Counsel [R5]

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ORDER

This writ petition has been filed for the following relief:

> "*To issue a Writ of Mandamus, directing the respondents to grant notional promotion to the petitioners for the post of Accountants on par with their Juniors who have been promoted of the year 2014-2015 and consequently direct the respondents to restore original seniority of the petitioners and include their name in the appropriate place for panel of Accountants so as to enable them to get further promotion as Superintendent on par with their juniors with all service benefits*."

2. The brief facts are as follows:

(i) Both the petitioners are working as Accountants in the 2nd respondent's office. They were selected through direct recruitment by the Tamil Nadu Public Service Commission /5th respondent herein as per the Notification dated 27.04.2012. Thereafter, the petitioners were allotted to the 2nd respondent-Department. Both of them were

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appointed as Junior Assistants on 01.12.2013 by the 2nd respondent and they were promoted as Accountant on 16.06.2016 by the 2nd respondent. At present, the 1st petitioner is working in the Pay and Accounts Office-Chennai South and the 2nd petitioner is working in the Sub-Treasury, Walajabad, Kanchipuram District.

(ii) The petitioners would submit that next avenue of promotion is to the post of Superintendent. The post of Accountant is the feeder category for the promotion to the post of Superintendent in the respondent-Department. This post is governed by category 4 of the Special Rules for Tamil Nadu Treasuries and Accounts Subordinate Service and the inter-se-seniority has to be fixed among the promotees and direct recruitees in the cadre of Accountant, in terms of Rule 9 of the Tamil Nadu Treasuries and Accounts Subordinate Service Rules (hereinafter referred to as “the Rules”)

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(iii) Rule 11 of said Rules clearly mandates that the departmental unit is to be considered in respect of candidates recruited by direct recruitment through the 5th respondent. However, the respondents have not followed Rule 11 and therefore, fixation of seniority among the accountants is contrary to the said Rule.

(iv) The 2nd respondent had appointed 469 accountants through direct recruitment by the TNPSC for the recruitment year 2014-2015 and most of them were appointed only after 30.03.2015. However, the petitioners were promoted as Accountant only on 01.06.2016 at a later date owing to an administrative delay in sending them for training to Bhavani Sagar. This delay has resulted in their juniors over taking them in seniority.

(v) The petitioners would further submit that the directly recruited accountants appointed subsequent to the petitioners' promotion on 04.05.2015 were included in the seniority list by

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providing them a notional date of regularization. Rule 9 of the Special Rules would provide that where junior assistants are regularized in the cadre of Assistant /Accountant and the senior employees were regularized later, the seniority shall be reckoned notionally with reference to the date of regularization. Since this Rule was not complied with, the petitioners have made an objection to the respondents through the proper channel on 26.11.2024 as well as by registered post to publish the inter-se-seniority list between the direct recruitees and promotes in the cadre of Accountant on 15th May placing the petitioners in the appropriate place by providing a notional date of regularization in terms of Rule 9 of the Special Rules

(vi) For the last 10 years, the respondents have not published the inter-se-seniority list among the promotees and direct recruitees in the cadre of Accountants. In the meantime, issues regarding the fixation of seniority have arisen in various departments. These

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issues were addressed by this Court in the judgment reported in ***2019 SCC Online Mad 9129 [K. Raja and Ors. Vs. Additional Chief Secretary to Government and Ors].*** This order was further confirmed by the Hon'ble Supreme Court in C.A.No.4954 of 2016 dated 11.02.2021. Pursuant to the said judgement, all departments in Tamil Nadu have revised the seniority based on the marks secured in the TNPSC examination. It is therefore the contention of the petitioners that their seniority should be restored by the 5th respondent as Serial Nos. 40 and 51 respectively. However, this has not been done and their Juniors, R.Jothipriya at Serial No.58 and R.Sumithra at Serial No.63 have been placed above the petitioners, which is totally illegal.

(vii) The respondents once again called for the fixation of seniority as well as the approval of the panel. Therefore, the petitioners submitted their objections on 23.01.2025 and 24.01.2025 respectively. However, despite representations of the petitioners, the

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respondents have kept the same pending for consideration. The petitioners would contend that the delay in sending them for the training is the reason for their original seniority not being granted. They would submit that they are entitled to the original seniority as per the proviso to sub-section 2 of Section 40 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 as well as the judgment of the Hon'ble Supreme Court reported in ***(2004) 2 SCC 459 [P.Srinivas Vs M.Radhakrishna Murthy and Others]***

(viii) The petitioners would further submit that though they have been working as Accountants for the past 9 years, they have not been granted their original seniority. As a result they have been denied further promotion and other service benefits. Therefore, they have once again submitted a representation to the respondents which was also not considered. They would also submit that, under Section 58 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the 1st respondent has the power to set right the seniority

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and grant the notional service benefits. Therefore, the petitioner has come forward with this writ petition.

3. Initially, this Court was pleased to grant an order of status-quo on 17.02.2025 following the order passed in W.M.P(Md)No.2776 of 2025 in W.P(Md) No.3836 of 2025. By reason of the above interim order, the respondents were not able to finalize their seniority list. Therefore, they have come forward to file a counter affidavit along with an application to vacate the interim order.

4. A counter affidavit has been filed by the respondents wherein they have set out the service particulars of the petitioners are as follows:

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Sl. No	*Name of the employee. Designation, Present working office & Employee ID (Thiruvalargal)Parent District Unit*	*Date of Joining as Junior Assistant*	*Acct. Panel Sl.No*	*Date of Joining in the post of Accountant I Actual date of regularization*	*Notional date of regularization for inter se seniority/ Promotion*
1.	M.Dillibabu, Accountant, Pay And Account Office (South),Chennai, 16020000220 **(Chennai One Unit)**	01.02.2013	11/ 2015- 16	16.06.2016	30.04.2015
2.	R.Thanigaimalai, Accountant, DT Kancheepuram, 16020132487 **(Kancheepuram)**	01.02.2013	1/ 2016- 17	01.06.2016	01.06.2016

They would submit that the petitioners' interpretation of Rule 11 is totally misconceived. As per Item 28 of Rule of the Tamil Nadu Ministerial Service Rules, the departmental unit for the purpose of direct recruitment is with reference to the Treasuries and Accounts Department. However, as per Rule 18 of the said Rules, each Revenue District and the Chennai Unit constitute a separate unit upto the level of accountant for the purpose of fixing inter-se-seniority and the Treasury Officer of the concerned department is the

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appointing authority. The respondents have relied upon Rule 10 Annexure II of the Tamil Nadu Ministerial Service Rules. It is their contention that the individuals who are in one District cannot compare the seniority of any other person in another district and claim fixation of inter-se seniority on par with the individual of the other district. They would rely upon the order passed by this Court in W.P.No.12819 of 2012 dated 20.09.2013 where the relief claimed by the petitioners therein was dismissed and the writ appeal filed by the petitioners in W.A.No.405 of 2014 was also dismissed on 02.04.2014 against which there was no further appeal. They would further submit that though the petitioners were belatedly sent for training to Bhavani Sagar, the original date of probation was restored and given effect notionally on par with their juniors. That apart it was the contention of the respondents that the petitioners cannot compare the date of joining with that of direct recruit Accountants since the mode of recruitment is not one and the same. The allegation that the notional date of regularization was not given is also totally

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misconceived. In order to substantiate the argument, the respondents have set out a tabulated statement in the counter affidavit showing the seniority and district unit details of the writ petitioners and other individuals. Therefore, they would submit that claiming of seniority over other persons belonging to some other district Treasury units is totally unsustainable as per Rule 18 of the Tamil Nadu Ministerial Service Rules. This Rule position has been suppressed by the petitioners and the same has already been upheld by this Court and later affirmed by the Division Bench of this Court against which no further appeal has been filed. The respondents would quote the judgement of the Division Bench of the Madurai Bench of this Court in W.A(Md)No.1347 of 2018 etc batch where it was held that seniority should be prepared in accordance with Rule 9 of the Tamil Nadu Treasuries and Accounts Subordinate Services Special Rules. Accordingly, the seniority has been prepared. However, the same has been challenged by 34 persons in W.A(Md) No.1037 of 2025 where status-quo orders have been passed. The said order is being followed

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in the instant case. On account of these interim orders, the respondents are unable to finalize the seniority the list despite the orders of the Division Bench of this Court.

5. The learned counsel appearing for the petitioners would submit that Rule 5 of the Ministerial Services Rules particularly Rule 5(b) provides that "*Promotion to the post of Assistant and to the post which carry the scale of pay of Assistant shall be filled up from qualified Junior Assistant and Typist from the combined inter-se seniority list of the holders in these categories who have been recruited in the same year with reference to the date of regular appointment in the respective category. Provided that the seniority among the Junior Assistant or Typist as fixed by the Public Service Commission shall not be altered while fixing their inter-se seniority.*" Therefore, he would submit that the seniority of the petitioners had been fixed by the respondents vide their proceedings dated 12.07.2023. He would submit in the Annexure to this

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proceedings, the petitioners have been shown as Serial Nos.40 and 51 whereas the Juniors, who have now been promoted, have been shown as 58, 60 and 63. He would submit that in the panel for the post of Sub Treasury Officer /Additional Sub Treasury Officer/Superintendent for the year 2024-2025 enclosed in the Circular dated 22.11.2024, the petitioners' name have not been included whereas the names of their juniors have been included in the said panel. This is clearly contrary to the proviso to Rule 5(b). He would submit that Item XXVIII of Rule 11 of the Ministerial Services Rules clearly provides as follows:

"Treasury and Accounts Department – All Offices in the city of Madras and outside together"

Therefore, it is contention that in the light of Rules 5 and 11 of the Ministerial Services Rules, the petitioners' names ought to have been considered in the panel. He would also rely upon the proviso to Section 40(2) of the Tamil Nadu Government Servants (Conditions

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of Service) Act, 2016 to state that where a Junior has been appointed earlier than the Senior, then the Senior shall be deemed to have been appointed to the service / category on the same day on which the Junior was so appointed. Therefore, since R.Jothipriya, R.Saravanapandian, R.Sumithra and R.J.Saravanan have been promoted and as they are juniors to the petitioners by applying the proviso to Section 40(2), the petitioners are also entitled to be notionally promoted on the same date as the respondents.

6. Per contra, the learned counsel for the respondents would submit that the petitioners have misunderstood the rule position. Rule 11 contemplates a Departmental Unit for Recruitment purposes. However, for the purpose of appointment / discharge / re-appointment, appointment as full member and promotion, it is Rule 36 that is applicable. Rule 36(c) specifically states that the unit of application of the General Rules governing promotion shall be the jurisdiction of each of the authorities which, according to Annexure-

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II, are competent to make promotion. Annexure-II, in turn, would read as follows:

ANNEXURE-II

(Referred to in rule 10)

APPOINTING AUTHORITY

TREASURY AND ACCOUNTS DEPARTMENT

1. All the Unit Offices in the Treasuries and Accounts including Pay and Accounts Offices in Madras District:-

Typist, Steno-typist Grade-III, Junior Assistant and Accountant	*Personal Assistant (Administration) to the Director of Treasuries and Accounts.*

2. Treasury including Sub-Treasury in each district:-

All members of the service.	*Treasury Officer concerned. Provided that transfers within the districts shall be made by Treasury Officer concerned, transfers outside the district and transfers from mufassil to the City of Madras offices and vice-versa shall be made by the Director of Treasuries and Accounts.*

Therefore, the learned counsel would submit that the contention of the petitioners that the departmental unit as contemplated in Rule 11 has to be followed in the case of Rule 36 is totally misconceived. They would also rely upon the judgement of a learned Single Judge

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of this Court in W.P.No.12819 of 2012 where a similar issue was considered and the learned Judge, relying upon G.O.M.S.No.253 Finance (T&A) Department dated 20.04.1992, held that the Treasury organisation in each revenue district would constitute a separate unit upto the level of accountant and that the seniority in the cadre of accountant in Chennai treated as one unit cannot be equated with that of other Districts. This judgement has been confirmed by the Division Bench in W.A.No.405 of 2014. He would submit that the same principle applies to the case on hand and that the petitioners are entitled to the relief claimed for.

7. Heard the learned counsels on both sides and perused the materials available on record.

8. In order to appreciate the case on hand, it would be necessary to extract the following provisions:

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(i) Section 40(2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016:

"*40. Fixation of seniority.*

(2)The seniority of a person in a service, class, category or grade shall, where the normal method of recruitment to that service, class, category or grade is by more than one method of recruitment, unless the individual has been reduced to a lower rank as a punishment, be determined with reference to the date on which he is appointed to the services, class, category or grade:

Provided that where the junior appointed by a particular method of recruitment happens to be appointed to a service, class, category or grade, earlier than the senior appointed by the same method of recruitment, the senior shall be deemed to have been appointed to the service, class, category or grade on the same day on which the junior was so appointed:

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Provided further that the benefit of the above proviso shall be available to the senior only for the purpose of fixing inter-se-seniority:

Provided also that where persons appointed by more than one method of recruitment are appointed or deemed to have been appointed to the service, class, category or grade on the same day, their inter-se-seniority shall be decided with reference to their age."

<u>(ii) Rule 5 of the Ministerial Services Rules:</u>

Promotion to Selection posts:

(a) Promotion to the selection categories and grades specified in Annexure I shall be made only on grounds of merit and ability, seniority being considered only where merit and ability are approximately equal. Provided that for filling up of a single vacancy, the claims of the first five qualified persons in the seniority list in a category or grade shall be considered and that the same proportion shall be maintained in making selection for more

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than a single vacancy. Provided further that if the first five qualified persons, after consideration of their claims; are found not suitable for the post, the claims of the next five qualified persons shall be considered.

(b) Promotion to the post of Assistant and to the posts which carry the scale of pay of Assistant, shall be filled up from qualified Junior Assistants and Typists from the combined inter-se-seniority list of the holders in these categories recruited in the same year, with reference to the date of regular appointment in the respective category: Provided that the seniority among the Junior Assistants or the Typists as fixed by the Tamil Nadu Public Service Commission shall not be altered while fixing their inter-se-seniority.

**(Substituted) (vide G.O.Ms.No.16, P & AR (B) Dept., dated 21.2.2002 w.e.f.*

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27.11.1992).

(iii) Rule 11- Departmental Unit-Recruitment:-

For purposes of direct recruitment to the service, a `departmental unit' shall mean--

(a) in the City of Madras, each office; and

(b) outside the City of Madras, each department in each District;

Provided that each office or group of offices specified below shall be a departmental unit:-

Item (XXVIII) Treasury and Accounts Department - All Offices in the City of Madras and outside together

The petitioners have proceeded on the premise that, since Item XXVIII of Rule 11 would describe the Treasury Accounts Department to include all offices in the City of Madras and outside together, the seniority list which is fixed at the time of recruitment would be the list that has to be followed at the time of granting promotion. However, this interpretation is not correct in the light of Section 36(c) which clearly states that in the case of the promotion

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jurisdiction is according to Annexure-II. Annexure-II in turn would treat all the unit offices in Madras as one Unit whereas the Treasury including the Sub Treasury in each district is considered to be a separate unit. Therefore, when considering promotions, and applying Rule 36(c), it has to be only on the basis of the departmental units as contemplated in Annexure-II. It has been further argued that, as per the provisions of Rule 36, the departmental unit is considered only for appointment to the post of Accountant. Thereafter, all units are treated as one. The order in W.P. No. 12819 of 2012 dealt with a similar issue, and the learned Judge observed as follows in paragraph 10:

> *"10. It is also noted that, as per the government order, in G.O.Ms.No.254, Finance (T.&A) Department, dated 20.4.1982, it has been made clear that the Treasury organization in each revenue accountants. The seniority fixed in respect of the petitioners, in the cadre of accountant, in Chennai One Unit,*

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was based on their date of regularization in the said cadre and it cannot be revised to be on par with that of K.M.Chandrasekaran, whose services in the cadre of Accountant had been regularized in Tiruvallur District Unit. Therefore, the comparison of the petitioners, with that of the position of K.M.Chandrasekaran or with other similarly placed persons cannot be accepted. As such, the request made on behalf the petitioners, for the re-fixation of the retiral benefits and for their payment, cannot be granted. Accordingly, the writ petition stands dismissed. No costs. In such circumstances, the present writ petition filed by the petitioners is liable to be dismissed. Hence, it is dismissed. No costs"

This order was challenged by the writ petitioners in W.A.No.405 of

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2014 and the same was confirmed by the Bench as follows in paragraph 4:

> *"4. The abovesaid reasoning of the learned single Judge on facts has not been questioned. When the seniority is fixed as per Rule 18 of the Tamil Nadu Ministerial Service Rules pertaining to the District treating them as separate units, the appellants cannot seek seniority has not been fixed in the unit in which the appellants were working. Therefore, we do not find any merit in the contention raised by the learned counsel for the appellants in so far as the first issue is concerned."*

The Judgment of the Hon'ble Supreme Court quoted by the petitioners, namely ***(1994) 6 SCC 301 [Chairman, Puri Gramya Bank vs Ananda Chandra Das]*** would not apply to the facts in issue in the instant case. Therefore, the very basis on which the writ petition has been filed being erroneous, the relief claimed cannot be

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granted. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order / Non Speaking Order
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To
1.The Principal Secretary to Government,
Finance Department,
Fort St.George,
Secretariat, Chennai-600 009.

2.The Commissioner,
Treasuries and Accounts Department,
IIIrd Floor, Perasiriyar K. Anbazhagan Maligai,
Nandanam,
Chennai-600 035.

3.The Additional Director (Admin),
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4.The Treasury Officer,
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Kanchipuram District.

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Tamil Nadu Public Service Commission,
Broadway,
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