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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.Nos. 7021, 7074 of 2024

And

W.M.P.Nos. 7844 , 7846, 7899 & 7901 of 2024

W.P.No. 7021 of 2024

Mr.S.Kapil Dev

... Petitioner

..Vs..

1. The Government of Tamil Nadu
Rep. by its Secretary to Government
Personnel and Administrative Reforms Department
Fort St. George, Chennai – 600 009.
2. The Director of Animal Husbandry and
Veterinary Services
Nandanam
Chennai – 600 035.
3. The Secretary, Tamil Nadu Public Service Commission
Frazer Bridge Road, V.O.C., Nagar,
Chennai – 600 003.
4. Mrs.A.Kanagambal ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying

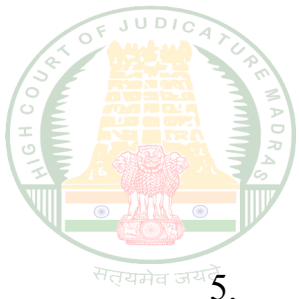


for the issue of a Writ of Certiorarified Mandamus calling for the records of the second respondent made in his proceedings in Na.Ka.No. 23703/R2/2023 dated 06.03.2024 and quash the same and consequently direct the second respondent to re-fix the seniority of the petitioner after giving proper notice and calling for objections from the affected persons from among the Typists and Junior Assistants who were appointed pursuant to the Notification No. 14/2012 dated 27.04.2012 issued by the Tamil Nadu Public Service Commission.

For Petitioner	:: Mr. S.Silambanan Senior Counsel for Mr.M.Babu Barveez
For RR 1 & 2	:: Mrs. P.Vijaya Devi Government Advocate
For 3 rd Respondent	:: Mr.R.Karthikeyan
For 4 th Respondent	:: Mrs. Dakshiyani Reddy Senior Counsel for Mr.G.Lokeswaran

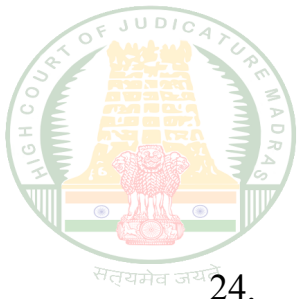
W.P.No. 7074 of 2024

1. V.Arularasi
2. D.Kalviselvan
3. D.Somasundaram
4. P.Ignatius Abraham



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5. S.Siva Karthick
6. C.Jeyakumar
7. K.Selvaraju
8. I.Raja
9. P.Muralikrishnan
10. C.M.S. Vijayalakshmi
11. D.Raja Raja Cholan
12. C.Murali
13. K.Panjamuthu
14. M.Ravi
15. A.Kalima Banu
16. P.Parimala
17. Jeyageetha
18. M.Abdul Hameeth
19. S.Dhivaya
20. C.Preme Latha
21. S.Elayaraja
22. R.Venkataragavan
23. K.Seenivasan



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24. Sivachaidambaram

25. V.Selvakumari

26. Kanmani

... Petitioners

Vs.

1. The Government of Tamil Nadu
Rep. by its Secretary to Government
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2. The Director of Animal Husbandry and
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3. The Secretary, Tamil Nadu Public Service Commission
Frazer Bridge Road, V.O.C., Nagar,
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4. Mrs.A.Kanagambal

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records of the second respondent made in his proceedings in Na.Ka.No. 23703/R2/2023 dated 06.03.2024 and quash the same and consequently direct the second respondent to re-fix the seniority of the petitioners after giving proper notice and calling for objections from the affected persons from among the Typists and Junior Assistants who were appointed pursuant to the Notification No. 14/2012 dated 27.04.2012 issued by the Tamil Nadu



Public Service Commission.

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For Petitioners	:: Mr. S.Silambanan Senior Counsel for Mr.M.Babu Barveez
For RR 1 & 2	:: Mrs. P.Vijaya Devi Government Advocate
For 3 rd Respondent	:: Mr.R.Karthikeyan
For 4 th Respondent	:: Mrs. Dakshiyani Reddy Senior Counsel for Mr.G.Lokeswaran

COMMON ORDER

Both the Writ Petitions have been filed in the nature of Certiorarified Mandamus seeking records of the second respondent in the two Writ Petitions, the Director of Animal Husbandry and Veterinary Services, Nandanam, Chennai, in proceedings in Na.Ka.No. 23703/R2/2023 dated 06.03.2024 and to quash the same.

2. The writ petitioner seek a further direction that the second respondent must refix the seniority of the petitioners after giving proper notice and calling for objections from those who had been affected from



among Typists and Junior Assistants, who had been appointed pursuant to the Notification No. 14/2012 dated 27.04.2012 issued by the Tamil Nadu Public Service Commission.

3. W.P.No. 7021 of 2024 had been filed by one petitioner and W.P.No. 7074 of 2024 had been filed by 26 petitioners. The relief sought by them being common and the issues raised by them stating as to why the relief should be considered by this Court also being the same and arguments also advanced on the same lines, a common order is passed.

4. For the sake of convenience and as illustration, the affidavit filed in support of W.P.No. 7021 of 2024 is taken up for consideration.

5. The petitioner as the other petitioners in W.P.No. 2071 of 2024 was selected as Junior Assistant consequent to them having participated in a recruitment notification issued by the Tamilnadu Public Service Commission / Notification No. 14/12 dated 27.04.2012. That notification was issued calling for applicants for the post of Junior Assistant (non security), Junior Assistant (Security), Bill Collector (Grade-I), Typist for



which a common examination was conducted by the Public Service

Commission. The writ petitioners had been selected as Junior Assistants.

They are deeply aggrieved by the seniority list published by the second respondent whereby they have been placed below those who had been selected along with them as typists.

6. It is the claim of the writ petitioners that they should have been placed enmasse senior to the typists as was always done in the previous years and in the subsequent years. They claim that having been selected in the year 2013, they alone stood prejudiced by the inter-se / seniority list which had been published by the second respondent.

7. It is to be noted that in the notification, the Tamilnadu Public Service Commission had held out that there were 4402 vacancies and 463 carry forward vacancies to the post of Junior Assistants (non security) and 292 vacancies for the post of Junior Assistants (security) and 31 vacancies for the post of Bill Collectors Grade-I. With respect to Typists. it had been stated that there were 3321 vacancies and apart from 353 vacancies which were block log vacancies which were taken forward. The educational



qualifications required had also been given. The common qualification was pass in the SSLC public examination or its equivalent with eligibility to be admitted to the Higher Secondary Course or to College Course. Additionally, there was also a requirement of a technical qualification for those who opt exclusively for the post of typist. They must have a pass in higher/senior Tamil and English in typewriting or higher/senior grade in Tamil and lower junior grade in English or higher/senior grade in English and lower / junior grade in Tamil. In effect those who opted to be appointed as typists must know typewriting both in English and in Tamil, apart from having the minimum educational qualification of a pass in the 10th Standard Examination. For the post of Junior Assistants, the requirement of knowledge in typewriting was not insisted upon.

8. The writ petitioners had applied for the post of Junior Assistants and had also been recruited for the post of Junior Assistant. It is contended by the learned Senior Counsel on behalf of the petitioners that traditionally and conventionally and even now when the Tamilnadu Public Service Commissioner conducts common written examination, the top most individuals according to merit were accommodated as Junior Assistants and



the next half were accommodated as typists. There is no dispute that this was the norm which was always followed before the year 2013 and had also been followed after the year 2013. For that particular year, it had been drawn to my notice that the maximum cut of mark for the post of Junior Assistant was 231 and the maximum cut of mark for the post of typist was 208.50. There was also an option that those who had got higher marks could also opt to be considered for the post of typist and those, who had got higher marks and also had typewriting qualification can also seek to be appointed as Junior Assistants but technically, the cut off mark for the post of Junior Assistants commenced from 231 and generally till 208.50 and the cut of mark for the typist start from 208.50 and moved further down. Since it is now the norm that seniority list should be prepared in accordance with the merit and according to the rank obtained by the candidates in the common recruitment examination, naturally, the Junior Assistants by all means should have been placed senior above the typist. This was always done and this is also done after the year 2013.

9. In the year 2013, the learned Senior Counsel for the petitioner stated, that for some reason, the Public Service Commission did not forward the selected list to the respective Departments to issue the appointment



order. Thereafter, those who found that they have been selected, made a bee-

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line to the office of the Tamilnadu Public Service Commission. Initially four junior assistants went in and the Tamilnadu Public Service Commission forwarded the list of those four candidates on 13.12.2013 to the respective Departments to issue of appointment orders to them.

10. Once this fact was known to the typists, those who had been selected went over to the office of the Tamilnadu Public Service Commission, who forwarded their name in one set to the respective Departments for their appointment. This was done on 15.03.2013. Then, the remainder Junior Assistants went over to the office of the Tamilnadu Public Service Commission and the Tamilnadu Public Service Commission forwarded their list on 16.05.2013 to the respective Departments for issuance of appointment orders.

11. It is thus seen it was not a happy situation and the prescribed norm was not followed for determining seniority. This led to further confusion since the four Junior Assistants, whose names had been



recommended for appointment were actually appointed and joined duty earlier. Thereafter, the typists were appointed en masse and then the remainder Junior Assistants.

12. It is now insisted that the seniority as between the Junior Assistants and the typists would relate to the date of appointment or rather the date on which they joined duty or the date on which they were placed in appointment rather than on the merit or the marks which they had obtained in the qualifying examination. Contending that this particular procedure adopted is arbitrary and prejudicial to their interest and questioning the seniority list published by the second respondent in that particular sequence or rather irregular sequence, the Writ Petition has been filed.

13. The typists had also been impleaded as respondents. They have raised their objections to grant of any relief to the writ petitioners. The learned Senior Counsel on behalf of the petitioners pointed out the seniority list as published and stated that objections were not invited from the Junior Assistants before publishing the seniority list. This statement is countered by the learned Senior Counsel on behalf of the respondents / typists, who stated



that a provisional seniority list was initially published and the typists had raised their objections and after hearing their objections, the seniority list now impugned had been published.

14. It is contended that there cannot be continuous objections being raised and answered by the respondents by redetermining the seniority list. It is contended that the seniority list had therefore been published by taking into consideration one particular method namely, the date on which the individuals joined duty. It had been contended by the learned Senior Counsel for the respondents/typists that this was a fair method in which the seniority could be determined and is also in conformity with the rules and provisions of the law.

15. The provision of law is Section 40 of the Tamilnadu Government Servants (Conditions of Service) Act 2016. Section 40(1) which would be directly applicable with respect to seniority and determination of seniority is as follows:-

“40. Fixation of seniority.

(1) The seniority of a person in a service, class, category or grade shall, unless he has been



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reduced to a lower rank as a punishment, be determined in the order of his placement in the list prepared by the recruitment agency or appointing authority, as the case may be, in accordance with the rule of reservation and the order of rotation specified in Schedule-V, where it applies. The date of commencement of his probation shall be the date on which he joins duty irrespective of his seniority. ”

16. A perusal of the aforementioned provision shows that the date of commencement of probation shall be the date on which the employee joins duty irrespective of his seniority. Further reference had been made by the learned Senior Counsel on behalf of the respondents/typists to the Tamilnadu Ministerial Service Rules wherein with respect to seniority, it had been provided that it shall be with reference to the date of regular appointment in their respective category. The said provision is as follows:-

“(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.”

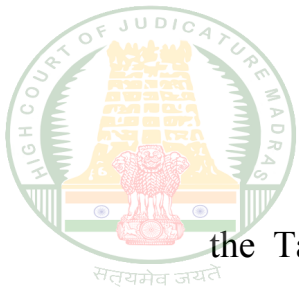


WEB COPY 17. Further reference had been made to Section 3(b) of the Tamilnadu Government Servants (Conditions of Service Act) 2016 wherein “appointed to a service” had been defined as follows:-

“(b)"appointed to a service" means when a person appointed in accordance with this Act or in accordance with the rules applicable at the time, as the case may be, discharges, for the first time the duties of a post borne on the cadre of such service or commences the probation, instruction or training prescribed for members thereof. ”

18. The definition states that the appointment would indicate the date when for the first time, the duties of the post borne on the cadre commenced. This would normally indicate the date on which the person had joined duty and had commenced discharging duty.

19. The learned Senior Counsel for the petitioner however pointed out that this would run contrary to the information provided by the Public Service Commission to a query under the Right to Information Act wherein



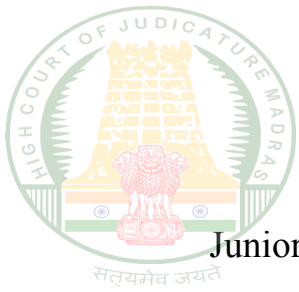
the Tamilnadu Public Service Commission had stated in their letter No.

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4398/RID-1/2019 dated 22.10.2019 that a senior is not determined on the date of joining duty but the particular date of joining duty is taken into consideration only for the date in which the individual is brought into regular service.

20. The learned Senior Counsel on behalf of the respondents/typists stated that this particular reply would run contrary to the provision of law and the rules which have been put in place after due process.

21. When normally, the Junior Assistants had obtained higher marks, than the typists, there is a legitimate expectation on their part that they should be placed senior than the typists. This was so in the normal course. But in the year 2013, the Tamilnadu Public Service Commission had, for the reasons best known to them forwarded a list of four Junior Assistants to be being appointed to the various departments and then forwarded the list of those who had been selected as typists en masse to the departments for issuance of appointment orders and then the list of the remainder of the



Junior Assistants who had been selected. This has created a situation which cannot be said to be to the advantage of the Junior Assistant. It has worked to their disadvantage. It is not known why the Tamilnadu Public Service Commission had so forwarded the lists in such a manner to the various departments for being considered to be placed in service.

22. The learned Senior Counsel for the respondents/typists pointed out that this act of the Tamilnadu Public Service Commission had not been questioned or challenged by the petitioners herein. What has been challenged is only the revised seniority list as between the Junior Assistants / writ petitioners and the typists / contesting respondents. This list has been prepared on the basis of the date on which each individual had joined duty. There are individual instances which had been pointed out by the learned Senior Counsel for the petitioner but the Court has to refrain itself from entering into any discussion on individual placement but examine the issue raised only as a concept, to determine whether this particular method of determining the seniority list from the date of joining, is permissible or not.

23. A reading of Section 40 of the aforementioned Act and Rule 5(b)



and also the definition under Section 3(b) would show that the seniority will have to be taken in accordance from the date of joining. Had the Tamilnadu Public Service Commission issued the list of successful candidates of Junior Assistants thereby enabling them to joining duty ahead of typists then this situation would not had arisen. This situation had not arisen earlier and not in the years later. It had arisen only in the year 2013. But however, the Court cannot review that particular decision.

24. The Tamilnadu Public Service Commission has two separate seniority lists and one each for Junior Assistants and for typists in accordance with merit. It is only when the inter-se seniority is taken into consideration that the date of joining plays a significant part.

25. One more contention raised on behalf of the petitioners is that objections had not been invited from the writ petitioner or from the Junior Assistants before the impugned seniority list was published. But earlier to this particular list, another list had been published and objections had been invited and objections had been given by the typists and thereafter, the present list had been prepared. If this issue of raising objections were to



continue then, it would never end. Therefore, the Junior Assistants and the typists will have to reconcile with the placement in which they are now placed and unless it is established that determining the seniority list on the basis of the date of joining, the post is unlawful and illegal, the impugned order cannot be interfered with.

26. The learned Senior Counsel for the petitioner had also brought to the notice of this Court that G.O.Ms.No. 417, P &AR Department dated 01.12.1993 provided guidelines to Public Service Commission in preparation of the inter-se seniority as between the Junior Assistants and the typists, who are selected on the basis of a common examination, by fixing the inter-se seniority in accordance with the marks which they had obtained. But unfortunately, the Act also provides for determining the inter-se seniority with respect to the date of joining duty and that provision cannot be stated to be prejudicial to any individual.

27. I find no reason to interfere with the impugned order. The Writ Petitions stand dismissed. Consequently, connected Miscellaneous Petitions stands closed. No order as to costs.



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02.04.2025

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Index: Yes/No

Internet: Yes/No

To

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C.V.KARTHIKEYAN, J.,

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