



W.P. No.32232 of 2016

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2025

CORAM:

THE HON'BLE MR. JUSTICE K. SURENDER

W.P. No.32232 of 2016

and

W.M.P. No.27953 of 2016

W. Durai Pandian

... Petitioner

-Vs-

1. The State of Tamil Nadu

Rep. by its Secretary,

School Educational Dept.,

Chennai – 600 006.

2. The Director of School Education,

DPI Campus,

College Road,

Chennai – 600 006.

... Respondents

Prayer : Writ Petition filed Article 226 of the Constitution of India, for Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Na.Ka. No.56090/A4/E3/2015, dated 13.02.2016 and quash the same and consequently direct the 2nd respondent to refix the seniority of the petitioner in the post of Assistant by including the name of the petitioner in the panel to the post of Assistant on 15.3.03 and fix the petitioner's seniority in the post of Assistant by taking into



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consideration the date of appointment as steno typist Grade III i.e. 11.10.1994 in consonance with rule 35aa and rule 35b of the TN State and subordinate Service rules and consequentially grant the petitioner with promotion to the post of superintendent on the date when his immediate junior was promoted with all consequential monetary and service benefits.

For Petitioner : Ms.Dakshayani Reddy
Senior Counsel
for Ms.S. Suneetha

For Respondents : Mr.A.M. Ayyadurai
Govt. Pleader

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ORDER

This writ petition has been filed to quash the order in Na.Ka. No.56090/A4/E3/2015, dated 13.02.2016 passed by the 2nd respondent and consequently direct the 2nd respondent to re-fix the seniority of the petitioner in the post of Assistant by including the name of the petitioner in the panel to the post of Assistant on 15.03.03 and fix the petitioner's seniority in the post of Assistant by taking into consideration the date of appointment as Steno Typist Grade III i.e. 11.10.1994 in consonance with rule 35aa and rule 35b of the Tamil Nadu State and Subordinate Service rules and consequentially grant the petitioner with promotion to

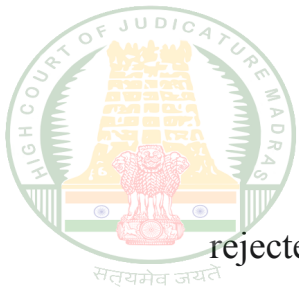


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the post of Superintendent on the date when his immediate junior was promoted with all consequential monetary and service benefits.

2. The facts of the case are that the petitioner was appointed as Steno-typist (Grade III) on 19.10.1994 in the Education department. The Steno-typist (Grade III) and the post of Assistant in the said Department were given the same scale of pay at the time of their appointment. It was earlier the situation that Steno-typist (Grade III) could not be appointed as an Assistant. Thereafter, G.O. Ms.No.34, dated 21.02.2001 was issued by the Government, whereby persons appointed as Steno-typist (Grade III) can be appointed as an Assistant, once employee completes eight years of service as Steno-typist (Grade III).

3. The petitioner was appointed as an Assistant on 07.07.2006. Accordingly, the petitioner approached the concerned and sought for re-fixation of seniority from 19.10.2002, since the petitioner completed eight years of service by the said date. However, the respondents have



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rejected to consider the re-fixation of seniority from 19.10.2002, vide
impugned order.

4. The learned Senior Counsel appearing for the petitioner would submit that the facts of the case are identical to the orders passed in W.P. No.41826 of 2016. In the said case also, this Court had directed the respondents to consider the revision of seniority in the post of Assistant on completion of eight years from the date of appointment of Stenotypist(Grade III). The said orders were passed based on the judgment of the Division Bench of this Court in W.A. (MD.) No.1402 of 2014. The relevant rule is extracted hereunder :-

“12. Rule 35 of the Tamil Nadu State and Subordinate Service Rules deals with fixing up of seniority of a person after he has entered into service. Rule 35(b) deals with the seniority of a person who got appointment through transfer of service which is extracted as follows :

“35(b). The transfer of a person from one class or category of a service to another class or category carrying the same pay or scale of pay shall not be treated as first appointment to the latter for purpose of seniority and the seniority of a person so transferred all be determined with reference to the rank in the class or category from which he was transferred; where any difficulty or doubt arises in applying this sub-rule, seniority shall be determined by the appointing authority”.



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5. In the aforesaid judgment, it has been held as follows :-

13. A perusal of Rule 35(b) will clearly indicate that when a person is transferred from one category of service to another category of service carrying same pay scale, it shall not be treated as first appointment to the transferred category. The seniority of such a person so transferred has to be determined with reference to his rank in the category from which he was transferred. Hence, it is clear that when Steno-Typist Grade III is appointed by transfer of service as Assistant which carries the same pay scale, the employee carries his seniority from the Steno-Typist Grade-III. There is no dispute whatsoever that the Steno-Typist Grade – III and the post of Assistant carry the same scale of pay.

6. The ratio laid down by the Hon'ble Division Bench applies to the facts of the present case and the petitioner is entitled for re-fixation of seniority from 19.10.2002, by which date, the petitioner completes eight years of service.

7. The respondents are directed to consider the re-fixation of seniority from 19.10.2002 and not from 07.07.2006, since the petitioner had completed eight years of service after his appointment on 19.10.1994. The respondents shall complete the said exercise, within a period of two weeks from the date of receipt of a copy of this order. The



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notional promotion, if entitled in accordance with the rules shall be considered by the respondents.

8. With the above directions, this writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

K. SURENDER, J.

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Internet: Yes/No
Index: Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To
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School Educational Dept.,
Chennai – 600 006.

2. The Director of School Education,
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