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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.SURENDER

W.A.No.1810 of 2025
and
C.M.P.No.13778 of 2025

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

2.The Secretary,
Tamil Nadu Information Commission,
No.19, Government Farm House,
FANEPHET, Nandanam,
Chennai - 600 035. ... Appellants

versus

1.K.Saravanan,
S/o.Kothandaraman,
No.7, Muniyappa Street,
Perumbur, Chennai - 600 011.

2.N.Vedachalam,
S/o.R.Narayanan,
No.2, B-Block, Plot No.138,
Akshaya Apartment, Jamalia,
Perambur, Chennai - 600 012.

3.K.Thiruvengadam,

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S/o.P.Kannan,
49/86, Kuttyappa Street,
Pumping Station Lane,
Kilpauk, Chennai - 600 010.

4.R.Gnanavel,
S/o.E.Radhakrishnan,
24/19, Rajagopal Street,
Rajanayackan Garden,
West Saidapet, Chennai - 600 015.

5.B.Mangaleswari,
S/o.Balaraman,
No.205, TNHB Colony,
Velacherry, Chennai - 600 045.

6.S.Perinbam,
S/o.S.Sudalai,
25, Murugesan Street,
Jafferkhanpet, Chennai - 600 083.

7.R.Baskar,
S/o.T.Raju,
No.8/159, Ayothiya Nagar,
Triplicane, Chennai - 600 005.

8.M.Mahalakshmi,
D/o.M.Mohan,
No.192/13, Jambulingam Street,
GKM Colony, Chennai - 600 082. ... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order passed in W.P.No.7806 of 2023 dated 26.09.2024.

For Appellants : Mr.R.Neelakandan
Additional Advocate General

For Respondents : Mr.J.Jayamalan - R1

JUDGMENT

(Judgment of the Court was made by ***R.SUBRAMANIAN, J.***)

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Aggrieved by the mandamus issued to come up with necessary amendments in the relevant rule and create **some promotional avenues** for the persons holding the post of Office Assistant / Record Clerk in the Tamil Nadu Information Commission, the State is on appeal.

2. Mr.R.Neelakandan, learned Additional Advocate General appearing for the appellants would submit that there cannot be a positive direction, as issued by the writ court, compelling the State to provide for promotional avenues to the employees of the Tamil Nadu Information Commission.

3. The petitioners before the writ court / respondents herein sought for the mandamus on the ground that though they were appointed directly as Office Assistants upon formation of the Commission, their services had been regularised with effect from the date of their initial appointments during the years 2009 and 2010, after framing of the Tamil Nadu Information Commission Service Rules, 2017 made in G.O.(Ms.)No.27 Personnel and Administrative Reforms (AR-III) Department dated 23.02.2017. Since under the Service Rules, there were no avenues for promotion for the posts of Office Assistant and Record Clerk, the respondents were forced to seek a

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mandamus as stated above.

4. The writ court, after referring to the judgments of the Hon'ble Supreme Court in ***Dr.Ms.O.Z.Hussain Vs. Union of India*** reported in ***1990 (Supp.) SCC 688*** and ***State of Tripura Vs. K.K.Roy*** reported in ***(2004) 9 SCC 65***, reached the conclusion that it is the constitutional obligation of the State as an employer to ensure that there are promotional avenues to the State government employees working in various cadres.

5. In ***State of Tripura Vs. K.K.Roy***, the Hon'ble Supreme Court went to the extent of pointing out that in the absence of promotional avenues, there should at least be an Assured Career Promotion Scheme, which would serve as an impetus to the employees to perform better.

6. We are unable to countenance the submission of Mr.R.Neelakandan, on the scope of the power of this court to issue a mandamus as has been done by the learned single Judge. In ***Dr.Ms.O.Z.Hussain Vs. Union of India***, the Hon'ble Supreme Court pointed out that the promotion is a normal incidence of service and the obligation on the part of the employer, particularly the Government to provide for promotions or Assured Career Promotion Scheme to its employees stems out

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of the rights guaranteed under Articles 14 and 16 of the Constitution of India.

7. Similar view was expressed by the Hon'ble Supreme Court in ***State of Tripura Vs. K.K.Roy*** *supra*. The Hon'ble Supreme Court in paragraph 6 of the judgment observed as follows:-

> *"**6. [Ed.: Para 6 corrected vide Corrigendum No. F.3/Ed.B.J./4/2004 dated 15-1-2004]**. It is not a case where there existed an avenue for promotion. It is also not a case where the State intended to make amendments in the promotional policy. The appellant being a State within the meaning of Article 12 of the Constitution should have created promotional avenues for the respondent having regard to its constitutional obligations adumbrated in Articles 14 and 16 of the Constitution of India. Despite its constitutional obligations, the State cannot take a stand that as the respondent herein accepted the terms and conditions of the offer of appointment knowing fully well that there was no avenue for promotion, he cannot resile therefrom. It is not a case where the principles of estoppel or waiver should be applied having regard to the constitutional functions of the State. It is not disputed that the other States in India/Union of India having regard to the recommendations made in this behalf by the Pay Commission introduced the Scheme of Assured Career Promotion in terms whereof the incumbent of a post if not promoted within a period of 12 years is granted one higher scale of pay and another upon completion of 24 years if in the meanwhile he had not been promoted despite existence of promotional avenues. When questioned, the learned counsel appearing on behalf of the appellant, even could not point out that the State of Tripura has introduced such a scheme. We wonder as to why such a scheme was not introduced by the appellant like the other States in India, and what impeded it from doing so. Promotion being a condition of*

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service and having regard to the requirements thereof as has been pointed out by this Court in the decisions referred to hereinbefore, it was expected that the appellant should have followed the said principle."

8. In view of the settled position of law as recorded above, we find that the writ court was well within its jurisdiction in granting the mandamus as prayed for.

9. Hence, we do not see any reason to interfere with the order of the learned single Judge. The Writ Appeal therefore fails and it is accordingly ***dismissed***. No costs. Consequently, the connected Miscellaneous Petition is closed.

(R.S.M., J.) (K.S., J.)
19.06.2025

Speaking order
Index : No
Neutral Citation : No

sri

To

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State of Tamil Nadu,
Human Resources Management Department,
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