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W.P.Nos.40860 of 2016 and 1412 of

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.40860 of 2016 and 1412 of 2017

and

W.M.P.No.947 of 2020

W.P.No.40860 of 2016

1. K.Vadivelu
2. N.Kulandaisamy
3. S.Thiagarajan
4. U.Raman
5. A.Ravi
6. R.Murugesan
7. S.Dharmaraj
8. K.Paulpandian
9. V.Radhakrishnan
10. V.Thirumalairajan
11. R.Nagarajan
12. P.Saravanan
13. N.Vilvarajan
14. K.Venkadesan
15. J.Vinayagam
16. S.Pravin Banu



W.P.Nos.40860 of 2016 and 1412 of

17. A.Venkatesan
18. V.Muthupandian
19. H.Jaison Selvakumar
20. S.Prabha
21. V.Sivakumar
22. V.Vijayan
23. S.Kumar
24. S.Tamilvendan
25. P.Ranjith Kumar
26. S.Dhivya
27. E.Praveenkumar
28. P.Tamilselvi
29. T.Sasikala
30. G.Rajalakshmi
31. T.Arulmani
32. N.Rajkumar
33. S.MohanaPriya
34. C.Vijayalakshmi
35. S.Savithri
36. M.Mahendra Krishnan
37. E.Parameswari
38. M.Sahathevan
39. N.Palaniammal
40. V.Menaka
41. R.Dhanasekaran



42. Mahendran

43. V.Pugalarasan

44. M.Senthilkumar

45. P.Saravanan

... Petitioners

Vs.

1. The Government of Tamil Nadu,
Through its Secretary,
Personnel and Administrative Reforms Department,
Secretariat, St. George Fort, Chennai-600 009.

2. The Deputy Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, St. George Fort, Chennai-600 009

3. The Secretary, Tamil Nadu Public Service Commission, Chennai

4. M.Gnanavadivel

5. G.Needhi

6. S.Sivakumar

7. A.Mathews

8. T.Parthiban

9. D.Ellammal

10. S.Siva Surya Narayanan

11. K.Balu

12. K.Prakash

13. R.Latha

14. R.E.T.Jeyanthi

15. S.Rajendran



W.P.Nos.40860 of 2016 and 1412 of

16. R.Sivagamasundari
17. B.Shanthi
18. G.Prakash
19. B.Gangabhavani
20. S.Rajalakshmi
21. A.Malarvizhi
22. V.Rajalakshmi
23. P.K.Suganthi
24. K.Tamilarasi
25. V.Sayee Lakshmi
26. A.Padmaja
27. K.Vasanthi
28. S.Parameswaran
29. N.Vijayavel
30. J.Andrew Johnson
31. K.Jayanthi
32. R.Gajavalli
33. R.Deepan Chakravarthy
34. S.V.Maheswaran
35. P.Vanitha
36. N.Arun
37. R.Vidhya
38. S.V.Pramila
39. A.Prasanna
40. G.Thilagavathi



41. O.M.Mahalakshmi
42. S.Sakthivel
43. M.Senthilkumar
44. A.Gowry
45. N.Balusamy
46. R.Chitra
47. R.Vijayakumar
48. S.Divya
49. V.Manohari
50. R.Amudha
51. K.Kavitha
52. N.Saravanan
53. V.Prema
54. N.Bhavani
55. T.Sabanayagam
56. R.Karukkuvel Raja
57. P.Jagadish
58. D.M.Sudha
59. R.Jayasubramanian
60. S.Parameswari
61. P.Viola Bai
62. S.P.Ramprasad
63. K.Sumathi
64. C.Kuppusamy
65. T.Marimuthu



66. R.Sulochana

67. T.Sasikala

68. N.Velu

69. L.Elango

70. M.Sibi

71. A.Ann Evangelin

72. M.Hema

73. N.Kavitha

74. V.Shriguhan

75. A.Joanna Jacinth

76. D.Danusri

77. S.Sivashankar

78. P.Banu

79. S.Rajarathinam

80. G.Sathiya

81. M.Manivasagam

82. S.Vinayagam

83. R.Sastri

84. M.Senthil

... Respondents

[R72 to R84 impleaded vide order dated 06.03.2018 in WMP No.6643 of 2018]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the G.O (Ms) No.111 Personnel and Administrative Reforms (U) Department dated 11.11.2016 issued by the 2nd respondent herein and quash the same insofar as it relates to Serial No.1 to 68 in the impugned GO/ Respondents 4



to 71 herein and consequently direct the 2nd respondent to place the petitioners directly recruited Assistant Section Officers for the year 2008-2009 above respondents 4 to 71 in the Seniority List.

For Petitioners : Mr.P.Chandrasekaran
for Mr.K.Balaji

For R1 & R2 : Mr.P.Ganesan,
Additional Government Pleader

For R3 : Mr.R.Bharanidaran

For R6, R7, R18, R22, R23,
R26, R30, R36, R44, R45,
R47, R55, R57 & R69 : Mr.N.Umapathi

W.P.No.1412 of 2017

1. A.Gopinath
2. K.Thangavel
3. P.Mahendran
4. P.Muthukumar
5. M.Senthilkumar

... Petitioners

Vs.

1. The Government of Tamil Nadu
Through its Secretary,
Personnel and Administrative Reforms Department,
Secretariat, St. George Fort, Chennai- 9
2. The Deputy Secretary to Government,
Personnel and Administrative Reforms Department,



Secretariat, St.George Fort, Chennai-600 009.

3. M.Gnanavadivel
4. G.Needhi
5. S.Sivakumar
6. A.Mathews
7. T.Parthiban
8. D.Ellammal
9. S.Siva Surya Narayanan
10. K.Balu
11. K.Prakash
12. R.Latha
13. R.E.T.Jeyanthi
14. S.Rajendran
15. R.Sivagamasundari
16. B.Shanthi
17. G.Prakash
18. B.Gangabhavani
19. S.Rajalakshmi
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21. V.Rajalakshmi
22. P.K.Suganthi
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25. A.Padmaja
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27. S.Parameswaran
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37. S.V.Pramila
38. A.Prasanna
39. G. Thilagavathi
40. O.M.Mahalakshmi
41. S.Sakthivel
42. M.senthilkumar
43. A.Gowry
44. N.Balusamy
45. R.Chitra
46. R.Vijayakumar
47. S.Divya
48. V.Manohari
49. R.Amudha
50. K.Kavitha
51. N.Saravanan



52. V.Prema
53. N.Bhavani
54. T.Sabanayagam
55. R.Karukkuvel Raja
56. P.Jagadish
57. D.M.Sudha
58. R.Jayasubramanian
59. S.Parameswari
60. P.Viola Bai
61. S.P.Ramprasad
62. K.Sumathi
63. C.Kuppusamy
64. T.Marimuthu
65. R.Sulochana
66. T.Sasikala
67. N.Velu
68. L.Elango
69. M.Sibi
70. A.Ann Evangelin

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to G.O(4D) No.31, dated 19.05.2014 and G.O(4D) No.32 dated 19.05.2014 issued by the second respondent herein and quash the same insofar as it relates to fixing of



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W.P.Nos.40860 of 2016 and 1412 of



seniority of respondents 3 to 70.

For Petitioners : Mr.P.Chandrasekaran
for Mr.K.Balaji

For R1 & R2 : Mr.P.Ganesan,
Additional Government Pleader

COMMON ORDER

The issue that arise for consideration in these writ petitions is with regard to *interse* seniority among the promoted and direct recruitee Assistant Section Officers in the Secretariat Services with reference to the principle of quota rota system.

2. It is brought to the notice of this court by Mr.P.Chandrasekaran, learned counsel appearing for the petitioners that the very same issue has come up for consideration before this court on an earlier occasion in W.P.Nos.15683 and 15684 of 2011 and a co-ordinate bench of this court by an order dated 03.08.2018 has decided the said issue. The said order dated 03.08.2018 was also confirmed in W.A.Nos.2537 and 2612 of 2019 by an order dated 23.12.2020. The SLP filed there against is stated to have been dismissed by the Hon'ble Apex Court by an order dated 16.04.2021. The said



factual decision is not disputed by Mr.P.Ganesan, learned Additional Government Pleader and further it is also accepted that the issue that arise for consideration in the present writ petition is also governed by the said decisions.

3. In the light of the above, this court does not see any impediment to dispose of these writ petitions in terms of the order passed in W.P.Nos.15683 and 15684 of 2011 dated 03.08.2018.

4. By the said order dated 03.08.2018, a co-ordinate bench of this court, after discussing the matter in elaborate, held as under:-

“20. As stated above, the only point for consideration before this Court is whether the regularization of promotee Assistant Section Officers was in due compliance with Rule 8 of the Special Rules and whether such deviation from the Rule, can be detrimental to the right of the petitioners who were direct recruitees and appointed against substantive vacancies?”

21. As contended by the learned counsels for the petitioners, the claim of the petitioners is directly covered by the ratio [laid down by](#) the Hon'ble Supreme Court in the above referred two decisions.



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22. *The arguments advanced on behalf of the official respondents by the learned Addl.Advocate General that the erstwhile Rule 35(aa) of the Tamil Nadu State and Subordinate Service Rules and the present [Section 40\(2\)](#) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, was followed in the matter of fixation of seniority, cannot be acceptable as valid piece of argument, since the Section which was relied upon by the learned Addl.Advocate General has only a general application and cannot be pressed into service where quota-rota system is made mandatory. As per Rule 8 of the Special Rules, the ratio as prescribed for direct recruitment, transfer and promotion is 1:1:5, which means whenever first vacancy arises it has to be earmarked for direct recruit and once the vacancy is earmarked for direct recruitment, the consequential benefit of seniority has to be assigned on that basis. Unfortunately, the official respondents while granting retrospective regularization to the promotee Assistant Section Officers, have allowed encroachment by the promotee Officers into quota-rota meant for the direct recruitees, thereby negated the right of the petitioners to have their due seniority fixed on the basis of their substantive appointment. In simple terms, what has to be seen is whether a substantive appointee has a better right over a temporary appointee or vice versa and the inexorable conclusion would be that a substantive appointee will have better right than the temporary appointee and the service benefits have to be fixed on that basis including seniority. The impugned action of the official respondents by granting retrospective regularization detrimental to the interest of the direct recruitees like the petitioners herein, would only lend*



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legitimacy to the violation of the mandatory Recruitment Rules of quota-rota system. Such action on the part of the official respondents, would completely undermine the statutory rules and its implementation. Once a statutory rule governs any appointment, such appointment to that post has to be governed by such rules. Although it is permissible to resort to temporary appointments in order to tide over the administrative exigencies, but that does not give a handle to the administration to grant higher seniority to such temporary appointments in complete negation of direct recruits who were recruited against substantive vacancies. In fact, in this case, many of the temporary promotee Assistant Section Officers suffered reversion in between spells of appointment and therefore, this Court does not see any justification for the Government to pass orders by placing the promotee Assistant Section Officers enblock above the writ petitioners. Such exercise by the Government is not only against the mandatory recruitment rules, but also against the legal principles laid down by the Hon'ble Supreme Court. Therefore, the impugned action of the official respondents cannot be sustained in law.

23. In conclusion, the impugned Government Order in G.O.Ms.No.277 dated 22.7.1996 issued by the Secretary to the Government of Tamil Nadu, Personnel & Administrative Department Chennai/the second respondent herein, is hereby quashed.

24. This conclusion arrived at by this Court in W.P.No.15683 of 2011 will hold good in respect of other writ petition in W.P.No.15684 of 2011 though their panel year was different.



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Accordingly, Letter No.80730/ U/96/-2 and Letter No.80730/ U/96/-3 dated 17.2.1998 of the Secretary to the Government of Tamil Nadu Personnel & Administrative Department, Chennai/the first respondent herein, is hereby set aside.

25. In the result, both the Writ Petitions are allowed. No costs. The respondents are directed to revise the seniority of the petitioners by duly applying the quota-rota system as per Tamil Nadu Secretariat Service Rules (Special Rules) applicable to the category of Assistant Section Officers and fix their seniority at the appropriate place and grant consequential attendant benefits. The said exercise shall be initiated and completed within a period of eight weeks from the date of receipt of a copy of the order.”

5. In the light of the above, these writ petition are also allowed directing the respondents to revise the seniority of the petitioners by duly applying 'quota-rota' rule as per the Tamil Nadu Secretariat Service Rules (Special Rules) applicable to the category of 'Assistant Section Officers' and fix the seniority of the petitioner and private respondents at the appropriate place and grant consequential attendant benefits. The said exercise shall be initiated and completed within a period of eight weeks from the date of receipt of a copy of this order.



6. Accordingly, the writ petitions are allowed to the extent indicated

above. No costs. Connected miscellaneous petitions, if any, shall stand closed.

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27.01.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Government of Tamil Nadu,
Through its Secretary,
Personnel and Administrative Reforms Department,
Secretariat, St. George Fort, Chennai-600 009.
2. The Deputy Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, St. George Fort, Chennai-600 009
3. The Secretary,
Tamil Nadu Public Service Commission,
Chennai.



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W.P.Nos.40860 of 2016 and 1412 of

MUMMINENI SUDHEER KUMAR, J.

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W.P.Nos.40860 of 2016 and 1412 of 2017