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W.P.No.28990 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.11.2025

Pronounced on : 14.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.Nos.28990, 28991 & 28993 of 2019

P.Periyasamy ... Petitioner in W.P.No.28990/2019

A.Bakkiyarajan ... Petitioner in W.P.No.28991/2019

J.Damodharan ... Petitioner in W.P.No.28993/2019

vs

1. The State of Tamil Nadu
Rep by its Secretary to Government,
Rural Development and
Panchayat Raj Department,
Secretariat, Chennai – 600 009.

2. The Commissioner,
Rural Development and Panchayat
Raj Department,
Panagal Maaligai,
Saidapet, Chennai – 600 015.



3. The District Collector,
Perambalur,
Perambalur District.

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4. The District Collector,
Ariyalur,
Ariyalur District.

... Respondents in all petitions

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records connected in Na.Ka.No.5179/2019/R.D.2, dated 06.08.2019 passed by the fourth respondent and quash the same insofar as the petitioner is concerned and consequently direct the respondents to promote the petitioner as Junior Assistant from 2009 onwards notionally as the petitioner's name was included in the panel year 2007-2008 and pass orders.

For Petitioner
in all petitions : Mr.L.Chandrakumar
for Mr.K.Rajendraprasad

For Respondents
in all petitions : Mrs.V.Yamunadevi
Special Government Pleader

COMMON ORDER



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Since all the Writ Petitions raise common issue, they are heard together and are being disposed of by this common order.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and perused the records.

3. For ease of reference, the facts as stated in W.P.No.28990 of 2019 are being referred to.

4. Briefly stated the case of the petitioner(s) is that he was appointed as Panchayat Assistant in the year 1991; that he was promoted as Junior Assistant on 27.05.2011; that he was promoted as Assistant (Accountant) on 30.04.2015 and joined duty on 01.05.2015; and that he has been continuously working till date, without any remark.



5. It is the case of the petitioner that pursuant to the Government

Order in G.O.Ms.No.20, Rural Development and Panchayat Raj Department, dated 25.01.2008, the Government had enhanced Junior Assistant quota for promotion from the post of part-time Clerk/full time Clerk of Panchayat from 10% to 20%; that based on the aforesaid G.O, after bifurcation of Perambalur District into Ariyalur District, the third respondent sent a proposal dated 11.03.2009 to the second respondent with regard to the promotion to the post of Junior Assistant under 20% quota from the post of Panchayat Clerk/Panchayat Assistant, wherein, the petitioner's name was also included.

6. It is the further case of the petitioner that the second respondent, thereafter, forwarded the proposal to the Government for obtaining concurrence from the Tamil Nadu Public Service Commission (in short "TNPSC"); and that TNPSC, after a lapse of one year, had given its concurrence to the proposal sent by the third respondent for promotion to the



post of Junior Assistant from the Panchayat Clerk for the panel year 2007-2008 in respect of six persons including the petitioner.

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7. The petitioner(s) contended that after receiving concurrence of the TNPSC *vide* letter dated 04.02.2011 and the letter of Government dated 24.02.2011, the third respondent had issued promotion order, based on the approved panel or the year 2007-2008, by proceedings dated 24.05.2011; that thereafter, the petitioner's services were regularised in the post of Junior Assistant on 21.05.2012 with effect from 27.05.2011 and his probation was also declared as satisfactory.

8. It is the further case of the petitioner that thereafter, he was granted promotion as Assistant on 30.04.2015 and had joined duty in the promotion post on 01.05.2015.

9. The petitioner contended that though he was granted promotion as Junior Assistant *vide* proceedings dated 27.05.2011, relating to the panel



year 2007-2008 and further promotion as Assistant on 30.04.2015, he was

placed in the seniority list after the direct recruit candidates and after the promoted candidates; that aggrieved by the aforesaid action of the respondents in placing him below the direct recruited candidates and promoted candidates, he had submitted representations dated 08.08.2014, 30.04.2015 and 23.11.2018, with a request to notionally promote him as Junior Assistant at least from the year 2009, as his name was included in the panel year 2007-2008, which was approved with inordinate delay of two years for no fault of the petitioner.

10. It is contended by the petitioner(s) that only on account of the delay caused by the respondents, the promotions for the panel year 2007-2008 were delayed and thus, the petitioner cannot be denied or deprived of his seniority if only the promotions were granted in time.

11. By contending as above, the petitioner prays that since his name was included in the panel year 2007-2008, which had received concurrence



of the TNPSC, he should be treated as notionally promoted at least from

01.01.2009, thereby, his seniority is to be reckoned from the said date.

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12. *Per contra*, counter affidavit on behalf of the fourth respondent is filed. The respondents, by the counter affidavit, contended that the promotion from Panchayath Assistant to Junior Assistant was initially fixed at 10% quota as per G.O.Ms.No.964, Rural Development dated 28.11.1990; that as per the aforesaid G.O, concurrence of TNPSC was to be obtained before filling up 10% quota from promotion; and that the said quota was enhanced to 20% as per G.O.Ms.No.20 dated 25.01.2008.

13. By the counter affidavit, it is further contended that on enhancing the quota from 10% to 20% under the G.O.Ms.No.20, the respondents prepared panel list for promotion for the year 2007-2008 and opinion had been sought from the Director, Rural Development *vide* letter dated 19.03.2009 and thereafter, concurrence was obtained from TNPSC *vide* letter dated 04.02.2011, whereunder, the respondents were instructed to fix



the seniority from the date of appointment of the petitioner in the Minister

Services time scale.

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14. By the counter affidavit, it is further contended that based on the aforesaid instruction issued by the TNPSC, the petitioner was promoted from Panchayat Assistant to Junior Assistant on 24.05.2011 and the petitioner's services were regularised as per proceedings dated 21.05.2012, after completion of probationary period.

15. On behalf of the respondents, it is further contended that since, the petitioner was promoted as Assistant only in the year 2011, petitioner cannot seek for being appointed from the year 2009 either as regular or notional basis.

16. By contending as above, the respondents seek for dismissal of the Writ Petition.



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17. I have taken note of respective submissions.

18. At the outset it is to be noted that though right to be considered for promotion is a Fundamental Right, the same is not an absolute right to the promotion itself. *[See: 2024 SCC Online SC 3512 – Government of West Bengal v. Dr. Amal Satpathi]*. In the facts of the present case were inclusion of the petitioner name in the panel drawn up for promotion in the panel year 2007-2008 by itself cannot and does not create absolute right in favour of the petitioner to claim of he being required to be promoted during the said panel year.

19. Further, the panel prepared for the panel year 2007-2008 requiring to have a concurrence of the TNPSC for fixation of seniority and the said concurrence having been given by the TNPSC in the year 2011 and based on the concurrence of TNPSC, the respondents have issued proceedings promoting the petitioner to the post of Assistant on 24.05.2011

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and placing him under probation for a period of one year and thereafter

declaring his probation on 21.05.2012, resulting in petitioner services being

regularised from 25.11.2011, the petitioner cannot seek seniority from a date

earlier to his date of promotion or in any earlier year. This is by applying the

principle that the candidate is born into service only, when he joins in the

said post. Since, the petitioner had joined in the post of Assistant on

24.05.2011 and after satisfactory completion of probation being regularised,

the petitioner cannot claim to be recommended as having promoted from an

anterior date to the date of joining service as Assistant on promotion or

claim that his seniority is to be reckoned in the panel year in which his name

was included or any other date. **[See: (2021) 14 SCC 38 –State of Bihar and**

Others Vs. Arbind Jee]

20. As the petitioner was promoted to the post of Assistant only with

effect from 24.05.2011, though was included in the panel year 2007-2008, as

the said panel required concurrence from TNPSC in terms of



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G.O.Ms.No.964 as amended by G.O.Ms.No.20 dated 25.01.2008, the cla

of the petitioner cannot be accepted as valid or justified.

Accordingly, these writ petitions are devoid of merits and are dismissed. No order as to costs.

14.11.2025

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh



To

1. The State of Tamil Nadu

Rep by its Secretary to Government,
Rural Development and
Panchayat Raj Department,
Secretariat, Chennai – 600 009.

2. The Commissioner,
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T. VINOD KUMAR,



dh

Pre-delivery order made in
W.P.Nos.28990, 28991 & 28993 of 2019



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