IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.02.2025

CORAM

THE HONOURABLE MRS JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.31403 of 2024
and
W.M.P.Nos.34087 & 35428 of 2024

V.Saradha Rukmani .... Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Public Department,
Secretariat, Chennai 600 009.
2. The Secretary to Government of India,
Ministry of Personnel, Public Grievances and Pensions, (Department of Personnel and Training), New Delhi -1.
3. The Secretary,
Union Public Service Commission, New Delhi 69.

R2 and R3 are impleaded as per order dated 30.10.2024 IN WMP.35425/2024 IN WP.31403/2024 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to include petitioner name in the panel of District Revenue Officers for the year 2012 at the appropriate place and consequently, include petitioner name into the Select List of 2023 of the State Civil Service officers of Tamil Nadu for appointment to the cadre of Indian Administrative Service by taking into consideration of the petitioner seniority in the post of District Revenue officer strictly in terms of the judgment rendered by this Court in W.P.No.16862 of 2023 dated 11.09.2023 with all consequential seniority, monetary and service benefits within the time stipulated by this Court.

For Petitioner	:	Mrs.Dakshayani Reddy Senior Counsel for Mr.M.Nandhakumar
For R1	:	Mr.P.Kumaresan Additional Advocate General Assisted by Mr.VPR.Elamparithy Additional Government Pleader
For R2	:	Mr.P.G.Santhosh Kumar Senior Panel Counsel
For R3	:	Mr.V.Chandrasekaran Senior Panel Counsel

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the respondent to include the petitioner's name in the panel of District Revenue Officers for the year 2012 at the appropriate place and consequently, include petitioner's name into the Select List of 2023 of the State Civil Service officers of Tamil Nadu for appointment to the cadre of Indian Administrative Service by taking into consideration of the petitioner's seniority in the post of District Revenue officer strictly in terms of the judgment rendered by this Court in W.P.No.16862 of 2023 dated 11.09.2023 with all consequential seniority, monetary and service benefits within the time stipulated by this Court.

2. The case of the petitioner is that she has joined the service by appointment as a Junior Assistant with effect from 10.08.1984 and the service was regularized on the same date. However, instead of recording the petitioner's seniority from 10.08.1984 erroneously fixed as 04.06.1986 and also the seniority in the post of Assistant was not fixed correctly. Therefore, the petitioner has approached the Tamil Nadu Administrative Tribunal, Chennai, by filing O.A.No.2223 of 2002, seeking a revision of the petitioner's seniority in the post of Junior Assistant in the Revenue Department, Trichy District, and a proper placement in the seniority list of Assistants as well. By order dated 27.08.2003, the Tribunal has directed to re-fix the seniority of the petitioner with a direction to the Revenue Department of the Government of Tamil Nadu to place the petitioner's name in the Seniority list of Junior Assistant between Serial No.386 (Thiru.Ravisankar) and Serial No.387 (Smt.Muthulakshmi).

3. As a consequence of said order, G.O.(2D) No.260, Revenue (Service 6(2) Department, dated 16.04.2004) was issued, directing the District Collector, Trichy, to re-fix the seniority on the basis of the order of the Tribunal dated 27.08.2003 in O.A.No.2223 of 2002 and based on the said direction, the

seniority of the petitioner was revised by proceedings dated 19.07.2004 in the cadre of Junior Assistant and corresponding re-fixation was made in the panel of Assistants for the year 1990 including the name of the petitioner, based on which, revised orders were issued by the District Collector, Trichy on 20.07.2015 and 09.11.2016 respectively, re-fixing the relative seniority of the petitioner in the posts of Deputy Tahsildar and Tahsildar and the name of the petitioner was placed in the list of Tahsildars for the year 2003, as per the proceedings dated 09.11.2016.

4. The petitioner made a representation dated 27.12.2016 before the Commissioner of Revenue Administration to revise the petitioner's seniority correspondingly in the post of Deputy Collector by including her name in the panel of Deputy Collector for the year 2008-2009. The petitioner was promoted as Deputy Collector with effect from 11.02.2012 onwards from the panel of Deputy Collector for the year 2010-2011. Pursuant to the advancement of the name of the petitioner in the seniority list of Tahsildars for the year 2003 and from the list of Tahsildars for the year 2006, the petitioner states that her name ought to have been included in the list of Deputy Collector for the year 2008-2009 at the appropriate place on par with her Juniors and as a consequence

thereof, the petitioner was entitled for refixation of the seniority in the post of District Revenue Officer in the year 2012, whereas the petitioner's name was erroneously kept in panel of the year 2016. Thereafter, the petitioner submitted a representation on 27.12.2016, seeking for advancement of seniority in the post of Deputy Collector and District Revenue Officer. However, no order has been passed on the said representation and the revision of seniority for the post of Deputy Collector, the petitioner was issued with the charge memo dated 20.03.2017 and the proceedings dated 02.02.2018, the name of the petitioner was deferred for inclusion in the panel of District Revenue Officers. Hence, the petitioner had filed W.P.Nos.22472 and 22473 of 2018, before this Court. By a common order dated 19.12.2019, this Court quashed the charge memo dated 20.03.2017 and the proceedings dated 02.02.2018 and issued a direction to the concerned authorities to include the name of the petitioner in the list of District Revenue Officer for the year 2016 in accordance with seniority, along with all attendant benefits, including promotion and monetary benefits. On receipt of the above order, G.O.Ms.No.151, Public (Special-A) Department dated 28.02.2020 was issued to include the name of the petitioner at Serial No.16A in the panel of District Revenue Officers (DROs) for the year 2016 and based on the said promotion, the petitioner become eligible to be nominated by the respondent for including her name in the list for appointment to the post of Indian Administrative Service (IAS).

5. The petitioner subsequently sent a representation on 16.06.2020 and 08.02.2021, seeking for revision of seniority in the cadre of Deputy Collector by advancing her name from the seniority list for the year 2010-2011 to the list of Deputy Collectors for the year 2008-2009, on par with the juniors and after receipt of such representation, the petitioner was issued with two additional charge memos dated 24.02.2021 and 05.04.2021 by the Commissioner of Revenue Administration. Challenging the charge memo dated 24.02.2021, the petitioner filed W.P.(M.D) No.6390 of 2021, seeking to quash the charge memo dated 24.02.2021 and the Madurai Bench of this Court vide order dated 29.08.2022, allowed the said writ petition, quashing the charge memo as prayed for. Similarly, the charge memo dated 05.04.2021 was also quashed by this Court in W.P.No.10965 of 2021 dated 22.02.2024. Since the petitioner's representation dated 27.12.2016 and the subsequent reminders dated 16.06.2020 and 08.02.2021, for the inclusion of the petitioner's name in the panel of Deputy Collector for the year 2008-2009 were not at all considered and no order has been passed. Therefore, the petitioner had filed a

W.P.No.15391 of 2021, which was disposed of on 26.07.2021, with a direction to the Commissioner of Revenue Administration to consider the petitioner's representation and reminders thereon within a time frame stipulated by this Court. Inspite of receiving the said order, the Commissioner of Revenue Administration did not pass any orders on the representation even after the delay of 6 years of time, since the juniors to the petitioner by-passed her and marching over her in the post of Indian Administrative Service. The petitioner had constrained to file W.P.No.16862 of 2023, seeking for a direction to the respondents to include her name in the list of Deputy Collectors for the year 2008-2009, in the appropriate place, on par with her juniors and this Court by order dated 11.09.2023 allowed the writ petition, directing the respondents therein to re-fix the seniority retrospectively in the cadre of Deputy Collector for the panel of the year 2008-2009 in the appropriate position, i.e., below her immediate senior, Mr.S.Christy and above her immediate junior and also in the cadre of District Revenue Officer by placing her in the promotional panel of the year 2012 and the said exercise was directed to complete within a period of 4 months from the date of receipt of a copy of the order.

6. In pursuance of the judgment of this Court made in W.P.No.16862

of 2023 dated 11.09.2023, the petitioner's name was placed at the appropriate position in the seniority for the year 2008-2009. However, the petitioner's grievance regarding advancement of seniority in the cadre of District Revenue Officer for the year 2013 has not been complied with till date, inspite of said direction and the representation sent by the petitioner were not considered. Further, pending re-fixation of seniority in accordance with direction of the Court, the first respondent have drawn the select list of the year 2021 for the appointment of State Civil Service Officers to IAS and the same was published by the Government of India, Ministry of Personal & Public Grievances and Pensions Department dated 21.12.2022, in which, three persons junior to the petitioner belonging to the panel of District Revenue Officers for the year 2013 were included for appointment to IAS cadre and likewise another set of seven Civil service officers from the panel of District Revenue Officers for the year 2013 were included in the State Civil Select List for the year 2022. In these circumstances, the petitioner stated that the delay in the respondents taking action with regard to the re-fixation of the seniority of the petitioner both in the cadre of Deputy Collector and also the District Revenue Officer, by including her name in the Deputy Collector Panel for the year 2008-2009 and the District Revenue Officer Panel for the year 2012, had resulted in the petitioner from not being included in the Select List of State Civil Service Officers for the years 2021 and 2022, and as a consequence, persons who were junior to the petitioner in service were appointed excluding the petitioner.

7. Ms.Dakshayani Reddy, learned Senior Counsel for the petitioner states that the exclusion of the petitioner is a calculated attempt, and it is very obvious from the fact that the Secretary to Government, Commercial Taxes and Registration Department, had recorded certain adverse remarks in the Annual Confidential Report (ACR) for the period from 16.06.2021 to 31.03.2022, inspite of the fact that the Reporting Authority has given outstanding to the petitioner's performance during the said period. Therefore, the said entry was challenged by the petitioner before this Court by way of filing W.P.No.27493 of 2023. Initially, this Court entertained the writ petition and granted an interim stay on 20.09.2023, and later the same was allowed on 13.12.2024. Subsequently, the petitioner was placed under suspension on 03.11.2023 in contemplation of enquiry, and the same was challenged before this Court in W.P.No.32896 of 2023, wherein this Court had directed as an interim order to the respondent to reinstate the petitioner into service and the suspension period was treated as duty period.

8. It is further contented by the learned Senior Counsel for the petitioner that the reason very best known that the delay and denied promotion by way of conferment of IAS on the petitioner by resorting to scandalous activities, though as many as 10 persons junior to the petitioner have been appointed to the IAS in the select lists for the year 2021 and 2022 excluding the petitioner.

9. The learned Senior Counsel for the petitioner further contented that inspite of the order passed by this Court, directing restoration of the seniority and also the representation of the petitioner, seeking to re-fix the seniority in the cadre of Deputy Collector and District Revenue Officer in the panel for the years 2008-2009 and 2012, the first respondent not shown even scant regard to the order passed by this Court in W.P.No.16862 of 2023 dated 11.09.2023, wherein this Court has directed to re-fix the seniority of the petitioner. Therefore, left with no other option and efficacious remedy, the petitioner has came to know that the first respondent is in the process of preparing the select list of the State Civil Service Officers for the year 2023 for the appointment of IAS cadre, the petitioner has filed the present writ petition before this Court. It

is also submitted that inspite of seven writ petitions filed by the petitioner and filing petition before the Tamil Nadu Administrative Tribunal in 2002 and all those petitions have held in favour of the writ petitioner and none of the proceedings have been challenged by the first respondent.

10. Mr.P.Kumaresan, learned Additional Advocate General, appearing for the first respondent filed a counter affidavit, wherein the rejection of the candidature of the petitioner has been brought broadly under two heads:

> (i) The petitioner had not submitted a self assessment report on time so as to enable the Reporting Authority to write the Annual Confidential Report (ACR). However, without following the procedures, the petitioner has got her annual ACRs written after a lapse of 9 years for the period of 99 months, ACRs for 52 months are not available in full form as a remark of the Reporting Authority/Reviewing Authority has not been written. Without the ACR being complete, the petitioner could not be taken into consideration even for the probation of the select list for the year 2023.
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> (2) The probation of the petitioner in the post of Deputy Collector is yet to be declared and without such declaration, the name of the petitioner could not be included in the select list for the year 2023 to be

appointed in the cadre of IAS.

11. In response, the learned Senior Counsel for the petitioner submitted that while taking into the entire career of the petitioner right from the appointment as a Junior Assistant and the present claim of conferment of IAS by inclusion of her name in the select list submitted all along to have the seniority list. The petitioner was made to knock the doors of this Court and Tribunal each and every time and this Court or Tribunal through his orders has directed the re-fixation of the seniority in the appropriate place. The last one was W.P.No.16862 of 2023, by order dated 11.09.2023, directed the re-fixation of seniority of the petitioner in the cadre of Deputy Collector by including her name in the panel for the year 2008 and 2009 and District Revenue Officer for the year 2012.

12. The learned Senior Counsel appearing for the petitioner pointed out that by order dated 11.09.2023, issue has attained finality and no appeal has been filed by the respondents and that being the case, the necessary duty cast on the first respondent is to re-fix the seniority of the petitioner in the cadre of District Revenue Officer by placing the petitioner in the panel for the year

2012. Inspite of that being directed, the first respondent has not yet fixed the seniority of the petitioner in the post of District Revenue Officer in the panel of the year 2012.

13. The learned Senior Counsel for the petitioner further states that the act of the first respondent though it is contemptuous, the petitioner nowhere at that point of time and with great respect had addressed the representation for re-fixation of seniority in the post of District Revenue Officer by placing her in the appropriate place for the panel in the year 2012 and inspite of her representation and subsequent reminders, the first respondent has not taken any steps to fix the seniority and without re-fixing the seniority, the first respondent has forwarded the selection list for the year 2021-2022 for conferment of IAS and 10 persons junior to the petitioner have been appointed to the said post, which clearly shows that the first respondent for the reasons best known to him has not taken any steps to re-fix the seniority of the petitioner. But, they have included the name of her juniors in the select list for the year 2021 and 2022. She also would further submit that on seven occasions, the petitioner has come before this Court including the present writ petition to have grievance redress which were aimed to scuttle the progress of the petitioner to higher position not

only the first respondent. The respondents in the counter claim for ACR could not be finalised as the petitioner had submitted her self assessment belatedly and further it is claimed by the first respondent that about 52 months, the ACR have not been fully written insofar as the petitioner is concerned either by the Reporting Authority or by the Reviewing Authority and the same has precluded the consideration of the case of the petitioner.

14. The learned Senior Counsel for the petitioner pointed out the plight of the petitioner throughout her career, which is the calculated attempt made by the first respondent to sideline the petitioner all through her service, for reasons unknown. Even in the present scenario, the first respondent has countered the claim of the petitioner for consideration of her name citing the aforesaid two lacunae, which prevents the first respondent from considering the name of the petitioner, but, it is the specific submissions of the learned Senior Counsel that both the contentions advanced through the counter made by the first respondent are attributable to the first respondent and its subordinates, viz., the Reporting Authority and Reviewing Authority and they are not attributable to the petitioner and such being the case, the first respondent cannot come out and state that the record of the petitioner is not complete in the absence of

ACRs and declaration of probation, and therefore, her case cannot be considered and the same has to be dismissed.

15. The learned Senior Counsel for the petitioner further submits that even in the counter clearly stipulates that the self assessment of an Officer is not mandatory piece of material for the Reporting Authority, but it is only an additional guiding piece in the formulation of opinion as to the work of the employee by the Reporting Authority, which is even evident from the counter and more particular reference is made to the following:

> **"3. Points to be noted by the officer reported upon**
> 3.1 The officer reported upon is required to give brief description of his/her duties and responsibilities which would normally not exceeding about 100 words and a self assessment report to the Reporting Authorities within a period of 30 days after completion of the reporting period and based on the self assessment report, the reporting officer, shall write his report within a period of next 30 days and submit it to the Reviewing Authority, in any case, the reporting authority should not wait for self assessment report from the officer concerned beyond 30 days. Ideally, this should be in bullet form."

16. It is further submitted by the learned Senior Counsel for the petitioner that the belated submission of self assessment by the petitioner cannot be put against her, as no mandate is cast on the Reporting Authority to wait for an interminable period to receive the self assessment before assessing

the performance of the petitioner. It is also submitted that it is the duty cast on the first respondent to get the ACRs written within the time prescribed and the delay in the writing of ACR cannot be put on the shoulders of the employee by submitting non-receipt of self assessment.

17. The learned Senior Counsel for the petitioner further submitted that protracted charge memos, one after another, was issued to the petitioner only to prevent her from candidature being considered while the other junior persons, whose names have been cleared and have been appointed to the cadre of IAS. She would also drew the attention of this Court to the repeated non-compliance of the directions issued by this Court with regard to re-fixation of the seniority of the petitioner inspite of the representations of the petitioner pointing out the order passed by this Court in her favour. Even then, repeatedly the petitioner was placed in a wrong panel, for which, the petitioner had filed a writ petition before this Court in W.P.No.16862 of 2023 and inspite of the directions issued by this Court, there has been only a partial compliance and refugee is sought by the first respondent on non-receipt of the requisite ACRs and declaration of probation, which are within the control of the State and could not be attributed to the petitioner as has been scrupulously following her

re-fixation of seniority with the respondent to the various representations and reminders.

18. She would further submit that though the petitioner has been castigated by the Reviewing Authority by terming her work as not good and not to consider her for further promotion, which has been put at naught by this Court by setting aside the adverse remarks, however, the said Authority has not taken any steps to complete the ACRs of the petitioner and neither the State had taken any action against the concerned Reviewing Authorities nor the Reviewing Authorities have taken any action against the Reporting Authorities for not writing the ACRs of the petitioner within the prescribed period. Not withstanding the said flaw on the part of the first respondent, the petitioner regularly visited with a charge memo on flimsy grounds, which makes it clear that all is not well with the State while coming to grant of promotion to the cadre of IAS to the petitioner, which aspect has not been dealt with by the first respondent.

19. The learned Senior Counsel points out that the aforesaid flaws and position of the petitioner and vis-a-vis consideration of her name in the

2023 selection list, which the petitioner is entitled to, by means of her devoted deserved service has earned, required to be considered affirmatively by this Court by allowing this writ petition and giving a direction to the first respondent to forthwith recommend her name to the second respondent viz.., Union Public Service Commission and also the Central Government for appointing the petitioner in the cadre of IAS within a prescribed time frame as otherwise, the petitioner, who is at the fag end of the career, would not see the light of the day, as the first respondent would by its inaction, as like the above circumstances, the petitioner would be deprived of the promotion to the cadre of IAS to which she is duly and deservedly entitled to.

20. Mr.P.Kumaresan, learned Additional Advocate General appearing for the first respondent submitted that the petitioner's ACRs could not be written on the account of the charge memos that were issued to the petitioner, which were quashed by this Court only on a later date and therefore, a delay was envisaged in writing the petitioner's ACRs. Therefore, the said delay cannot be attributed to any ill-will on the part of the first respondent against the petitioner. The learned Additional Advocate General proceeded to state that the writing of ACRs is purely within the domain of the Reporting Authority and if

any ACR is not written for a particular period and not communicated to the petitioner, the petitioner ought to have been vigilant and taken up the same with the Reporting Authority, however, after quashment of the charge memos against the petitioner, the petitioner had taken efforts to have the ACRs written, which is under review as it requires to be reviewed in proper form as conferment of IAS cannot be as a matter of routine, but based on the work of the petitioner. In this regard, the learned Additional Advocate General submitted that merely because of the adverse entries written by the Reviewing Authority has been quashed, that would not stand in the way of the State in filing an appeal against the order and this background, the petitioner cannot impose upon the State to recommend the petitioner's name for consideration for conferment of IAS.

21. The learned Additional Advocate General would further submit that barring the above, the services of the petitioner in the cadre of Deputy Collector has not been approved and her probation has not been confirmed towards which action has been sought for, the declaration of petitioner's probation and till such time probation is declared, the case of the petitioner cannot be recommended for appointment. Further, he submitted that the petitioner has to be an approved probationer at the time when her name is

recommended for consideration and the petitioner not being an approved probationer, her name could not be recommended or taken for consideration for the year 2023. It is the further submission of the learned Additional Advocate General that even with regard to the ACR, of the 99 months period as Deputy Collector, about 52 months ACR for the petitioner are not available and without reports for the said period being tabulated and considered, the case of the petitioner cannot be considered for recommendation. Further, as on date when the Government Order in G.O.(2D) No.223, Revenue & Disaster Management Department, dated 21.08.2024 was passed including her name in the panel of Deputy Collector for the year 2008-2009, the petitioner has not obtained the ACRs for the crucial period and ACRs for 47 months are available in full, while ACRs for 52 months are not available and, therefore, her name could not be considered.

22. It is further submitted by the learned Additional Advocate General that the appointment by promotion to the juniors of the petitioner cannot make the petitioner claim the promotion as a matter of right as the said promotion is given after taking into consideration all the aspect relating to an employee's service and the juniors to the petitioner having cleared all the necessary stages

of scrutiny, the petitioner having not fulfilled certain stages, cannot claim equity or parity with her juniors, merely because she is senior in the cadre, more so, when may actions were taken against her, which was an off-shoot of her work, which cannot be put against the respondent, though the said charge memos were quashed by this Court, the time lost cannot be solely be fastened on the first respondent and the non consideration of the petitioner over and above her juniors cannot be the basis to seek for recommendation and subsequent promotion for conferment of IAS. Further, it was submitted that the unfilled and unwritten ACRs and probation declaration order in the post of Deputy Collector having not been completed, the case of the petitioner could not be taken up for consideration even in the select list for the year 2023 and once the rectification was made, the name of the petitioner would be taken for consideration.

23. Heard the learned Senior Counsel appearing for the petitioner and the learned Additional Advocate General appearing for the first respondent as well as the other respondents and perused the documents available on record.

24. After careful consideration to the submission made, it is seen that

though very many provisions of the Indian Administrative Service (Recruitment) Rules, 1954 and the Indian Administrative Service (Appointment by Promotion) Regulation, 1955, are pressed into service, there is no quarrel with any of the provisions in the aforesaid Rules and Regulations. Equally, it is not disputed by the learned Senior Counsel for the petitioner with regard to the application of the aforesaid Rules and Regulations to the petitioner and infact, it is pointed out by the learned Senior Counsel for the petitioner that applying the aforesaid provisions to the case of the petitioner in tandem with the decision in W.P.No.16862 of 2023, the petitioner's case has to be recommended along with the recommendation already made by the other candidates, whose names have been included in the Select List for the year 2023. It is borne out by record from the appointment of the petitioner as Junior Assistant to the present prayer of the petitioner for recommendation of the petitioner in the select list for the year 2023 for appointment of the petitioner in the cadre of IAS, the petitioner has been knocking the doors of the Tribunal and this Court to get her seniority refixed in the appropriate position. The Tribunal was the first source of direction for re-fixation of seniority of the petitioner in the cadre of Junior Assistant and Assistant. Thereafter, the petitioner at various times had moved up the ladder and at the position of Deputy Collector her name was not included in the panel for the year 2008-2009, which resulted in the petitioner filing a writ petition before this Court for fixation of her seniority in the panel for the year 2008-2009. The petitioner was also entitled for refixation of her seniority in the post of Deputy Revenue Officer by including her name in the panel for the year 2012, but erroneously her name was included only in the panel for the year 2016.There is no dispute about the fact that a representation was filed by the petitioner on 27.12.2016 for advancement of her seniority in the post of Deputy Collector and Deputy Revenue Officer. Having received the said representation, the Commissioner of Revenue Administration has not acted on the said representation, which is clearly an abdication of duty on the part of the Commissioner of Revenue Administration.

25. The first respondent without acting on the said representation dated 27.12.2016, the Commissioner of Revenue Administration had issued a charge memo dated 20.03.2017, which was challenged before this Court in W.P.No.22472 and 22473 of 2018, and this Court had quashed the charge memo vide its order dated 19.12.2019, issued a direction to the respondents to include the name of the petitioner in the list of District Revenue Officers for the year 2016. Pursuant to which, the petitioner's seniority was refixed and the petitioner

was appointed as District Revenue Officer. However, once again the petitioner had submitted her representation on 16.06.2020 and 08.02.2021, seeking for refixation of seniority list by advancing the petitioner in the list of Deputy Collector for the years 2008-2009 from 2010-2011. However, without considering the same, once again, the charge memos dated 24.02.2021 and 05.04.2021 were issued by the Commissioner of Revenue Administration. It is seen that as and when, the petitioner submitted representation for re-fixation of seniority by advancing her name in the panel, the petitioner is issued with charge memo, which the petitioner had challenged before this Court and infact, the petitioner was successful in her every attempt. Following the same pattern, the petitioner filed W.P.(MD)No.6390 of 2021, seeking for quashing the charge memo dated 24.02.2021, which was also ended in her favour vide order dated 29.08.2022 and the W.P.No.10965 of 2021, seeking for quashment of the charge memo, which also ended in favour of the petitioner by this Court. After the petitions ended in her favour, the petitioner filed W.P.No.15391 of 2021, seeking for a direction to consider the petitioner's representation dated 27.12.2016 along with the reminders dated 16.06.2020 and 08.02.2021 for inclusion of the name of the petitioner in the panel of Deputy Collector for the year 2008-2009.

26. It is also to be noted that while the representation had been given as early as in December 2016 and the said representation was not considered till date. The petitioner was again given the charge memo which are all quashed by this Court, by directing the respondent to consider the petitioner's representation and pass appropriate orders. The Commissioner of Revenue Administration ought to have been passed orders on the said representation of the petitioner atleast after the orders of quashment of the charge memos passed by this Court. It is submitted that even for passing orders on the representation, the petitioner had to seek this Court intervention to pass orders on the representation.

27. Even thereafter, the Commissioner of Revenue Administration had kept the representation pending without passing any orders, and therefore, again the petitioner has filed the W.P.No.16862 of 2023 before this Court, seeking a direction for including her name in the panel of Deputy Collector for the year 2008-2009 in the appropriate place, on par with her juniors and this Court has passed the following order:

> "23. As per the above judgement of the Hon'ble Apex Court, the disciplinary proceedings ended in favour of the member, it is as

> if the officer had not been subjected to any disciplinary proceedings. Such view of the matter, the petitioner is entitled to re-fixing the seniority in the cadre of the Deputy Collector by including her name for the year 2008-2009 and as a consequence, the cadre of District Revenue Officer by re-fixing the seniority for the panel of the year 2012. Mere subsequent charge memo is not a bar to fix the seniority retrospectively in respect of the post of the Deputy Collector and District Revenue Officer. Such view of the matter, this Court is of the view that merely because the authorities have not considered that appeal and the appeal is pending, without processing the same, the Petitioner cannot be non-suited in the writ petition. Accordingly, the writ petitioner has to succeed and the petitioner is entitled to re-fixing the seniority retrospectively in the cadre of Deputy Collector for the panel of the year 2008-2009 in the appropriate position, i.e.. below her immediate senior, S.Christy and above her immediate junior and also in the cadre of District Revenue Officer by placing her in the promotional panel of the year 2012 placing her below her immediate senior.
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> 24. Accordingly, the writ petition is ordered and the respondent shall re-fix the seniority of the petitioner and pass appropriate orders on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order. No costs."'

28. Pursuant to the above judgment dated 11.09.2023, it is a clear direction to the Authority concerned to include the name of the petitioner in the cadre of Deputy Collector in the panel of the year 2008-2009 in the appropriate position and also in the cadre of District Revenue Officer by placing her in the promotional panel of the year 2012, which have not been given effect by the first respondent. However, even prior to the direction issued as early as the

charge memo on the petitioner, which was issued in the year 2017, and relates to some act of the petitioner pertaining to the year 2011, challenging which, the petitioner had filed the W.P.Nos.22472 & 22473 of 2018 and this Court had passed orders on the charge memo issued against the petitioner, and relevant portion of the order is extracted herein under:

> "18. This Court is thoroughly convinced that there is absolutely no substance in the charge memo and an employee can never be proceeded against for complying with the orders of a Competent Court/Tribunal. It is the duty of the every officer to comply with the orders of the Court and there is no necessity to take the permission of the higher authority for implementing the orders of the Court. The petitioner who was complying with the directions given by the Assistant Settlement Officer, Chennai pursuant to the judgment passed by the Tribunal, cannot be subjected to a departmental proceedings and therefore, the charge memo issued against the petitioner requires interference of this Court."

29. Following the aforesaid order, the order in W.P.No.16862 of 2023 had came to be passed by issuing an affirmative direction to the Authority to refix the seniority of the petitioner in the appropriate place, with regard to Deputy Collector and District Revenue Officer and the said order has attained finality and no appeal has been filed by the State. Even, in the year 2019, there was a clear direction in W.P.No.22472 & 22473 of 2018, with regard to fixation of seniority of the petitioner in the cadre of District Revenue Officers, against

which no appeal has been filed, and the said order also attained finality.

30. The relevant provisions of the Indian Administrative Service (Recruitment) Rules, 1954, and Indian Administrative Service (Appointment by Promotion) Regulations, 1955, which has been relied upon by the learned Additional Advocate General as is extracted in the counter by the first respondent is material and stares writ large on the first respondent against their contention and for better appreciation, the relevant portion of the counter is extracted hereunder:

> "(1) Rule 4(1) (b) of the Indian Administrative Service (Recruitment) Rules, 1954 "By promotion of a (substantive) member of a State Civil Service"
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> (2) Rule 4(2) (b) of the Indian Administrative Service (Recruitment) Rules, 1954 "the number of persons to be recruited by each method shall be determined on each occasion by the Central Government in consultation with the State Government concerned"
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> (3) 6A(3) (i) till he is confirmed in the service.
>
> (4) Rule 8(1) of the Indian Administrative Service (Recruitment) Rules, 1954 "The Central Government may, on the recommendations of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Governments and the Commission, from time to time, make, recruit to the Service persons by promotion from amongst the substantive members of a State

Civil Service."

As per regulation 5(1) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 "Each Committee shall ordinarily meet every year and prepare a list of such members of the State Civil Service as are held by them to be suitable for promotion to the Service. The number of members of the State Civil Service to be included in the list shall be determined by the Central Government in consultation with the State Government concerned and shall not exceed the number of substantive vacancies as on the first day of January of the year in which the meeting is held, in the posts available for them under rule 9 of the recruitment rules. The date and venue of the meeting of the Committee to make the selection shall be determined by the Commission:

Provided that no meeting of the Committee shall be held, and no list for the year in question shall be prepared when,

(a) there are no substantive vacancies as on the first day of January of the year in the posts available for the members of the State Civil Service under rule 9 of the recruitment rules; or

(b) the Central Government in consultation with the State Government decides that no recruitment shall be made during the year to the substantive vacancies as on the first day of January of the year in the posts available for the members of the State Civil Service under nude 9 of the recruitment rules:

Provided further that where no meeting of the Committee could be held during a year for any reason other than that provided for in the first proviso, as and when the Committee meets again, the select list shall be prepared separately for each year during which the Committee could not meet, as on the 31 December of each year;

Explanation:- In the case of joint cadres, a separate select list shall be prepared in respect of each State Civil Service;

As per regulation 5(2) of the Indian Administrative Service

(Appointment by Promotion) Regulations, 1955, the Committee shall consider for inclusion to the said list, the cases of members of the State Civil Services in the order of a seniority in that service of a number which is equal to three times the number referred in sub-regulation (1):

Provided that such restriction shall not apply in respect of a State where the total number of eligible officers is less than three times the maximum permissible size of the Select List and in such a case the Committee shall consider all the eligible officers:

Provided further that in computing the number for inclusion in the field of consideration, the number of officers referred to in sub-regulation (3) shall be excluded:

Provided also that the Committee shall not consider the case of a member of the State Civil Service unless, on the first day of January of the year for which the Select List is prepared he is substantive in the State Civil Service and has completed not less than eight years of continuous service (whether officiating or substantive) in the post of Deputy Collector or in any other post or posts declared equivalent thereto by the State Government:

Provided also that in respect of any released Emergency Commissioned or Short Service Commissioned Officers appointed to the State Civil Service, eight years of continuous service as required under the preceding proviso shall be counted from the deemed date of their appointment to that service, subject to the condition that such officers shall be eligible for consideration if they have completed not less than four years of actual continuous service, on the first day of the January of the year for which the select list is prepared, in the post of Deputy Collector or in any other post or posts declared equivalent thereto by the State Government

Explanation- The powers of the State Government under the third proviso to this sub-regulation shall be exercised in relation to the members of the State Civil Service of a constituent State, by the Government of that State.

As per regulation 5(3) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the Committee shall not consider the cases of the members of the State Civil Service who ha attained the age of 54 years on the first day of January of the year for which the Select List is prepared:

Provided that a member of the State Civil Service whose name appears in the Select List (prepared for the earlier year) before the date of the meeting of the Committee and who has not been appointed to the Service only because he was included (provisionally in that Select List) shall be considered for inclusion in the fresh list to be prepared by the Committee, even if he has in the meanwhile attained the age of fifty four years:

Provided further that a member of the State Civil Service who has attained the age of fifty-four years on the first day of January of the year for which the select list is prepared shall be considered by the Committee, if he was eligible for consideration on the first day of January of the year or of any of the years immediately preceding the year in which such meeting is but could not be considered as no meeting of the Committee was held during such preceding year or years under item (b) of the proviso to sub-regulation (1).

The Government of India, Department of Personnel and Training had clarified that the upper age limit will be 56 years both State Civil Service and Non-State Civil Service officers vide Office Memorandum F.No.14015/30/2015-AIS-I dated 20.03.2015 from Select List 2015 onwards."

31. There is no quarrel made on behalf of the first respondent with regard to the applicability of Rules and Regulations and infact it does not the stand for the first respondent. The petitioner has not fulfilled the prescribed conditions

and completion of 8 years of service in the post of District Revenue Officer and also the petitioner is within the extended age of 56 years as provided in the Circular of Government of India and Department of Personnel & Training in Office Memorandum F.No.14015/30/2015-AIS-I dated 20.03.2015, which is applicable from the Select List 2015 onwards. Therefore, on the Select List of 2020, the upper age limit is 56 years for re-commendation and the petitioner had fulfilled the said criteria. However, the contentions raised by the first respondent border on the inaction of the petitioner not submitting the self-assessment in an appropriate time and doing it belatedly, which prevented the ACRs from being written and submitted on time. However, it is to be pointed out that the stand taken by the first respondent is only to extricate itself from the rigours of the wrong which is done to the petitioner in not writing the ACRs of the petitioner at appropriate time.

32. As per the counter, which has already been extracted, wherein as per the time frame, the ACRs of the employees, such as the petitioner, have to be written by the Reporting Authority and the Reviewing Authority. In the said advisory, though self-assessment by the Officer is provided, which is not a mandate, but only a guidance to the Reporting Authority to assess the work of

the individual, as seen from the eyes of the officer, which could be visualised by the Reporting Authority before putting in the remarks on the said officer. However, non-filing of self-assessment within the period prescribed dos not preclude the Reporting Authority from recording the remarks against the said officer and placing the same before the Reviewing Authority. Infact, a duty is cast on the Reporting Authority, to have noted remarks about the petitioner in the ACR of the petitioner every year and place it for review before the Reviewing Authority. However, the Reporting Authority had renounced its responsibilities by noting the remarks of the petitioner in the ACR and had kept silent. It is to be pointed out that mere issuance of a charge memo to the employee does not preclude the Reporting Authority from recording the remarks in the ACR of the petitioner. The first respondent cannot take shelter under the charge memos to claim that he could not record the ACR of the petitioner at the relevant point of time, as the dereliction on the part of the first respondent has put the career of the petitioner in peril, which prompted her to approach this Court at each instance when an injustice has been meted out to her.

33. This Court by perusing the records from the period 16.06.2021 to

31.03.2022, while the ACR for the petitioner was written, in which the Reporting Authority has entered that the petitioner is a very hard working officer and that her contribution in the Special Revenue is commendable and had given an overall grading of 9.5 out of 10, however, the Reviewing Authority has not only disagreed with the remarks of the Reporting Authority, but also recorded that the petitioner does not deserve any future promotions. The said adverse remarks were put in issue before this Court in W.P.No.27493 of 2023, and this Court has set-aside the said adverse remarks recorded against the petitioner. It is to be pointed out that the adverse remarks have been written against the petitioner for reasons best known to the first respondent, yet for a certain period of time, the first respondent is not able to have the ACRs of the petitioner written, which is shown to be the ground on which her name could not be recommended for being included in the Select List for the panel of the year 2023. One other aspect in the Select List of the years 2021 and 2022, in which persons, junior to the petitioner have been appointed in the cadre of IAS by conferment.

34. The list of persons who have been conferred and appointed in the IAS have been given by the petitioner and even on perusal of the same reveals that

the persons who have been recommended for conferment of IAS for inclusion of the names for the years 2021 and 2022 are persons who are holding posts within the City of Madras in various positions. Though other persons who are senior to the petitioner were also available and within the zone of consideration. However, their candidacy has not been considered. This Court is not venturing into the non-selection of the said persons, who are seniors to them who have been included in the Select List as it would be within the knowledge of the State with regard to suitability, credibility and merit, which would be reflected in the ACR. In the present case, the petitioner is one such person, who has not been selected that can be seen from the fact that the entire career record is not only before this Court but it has been spread wide through the various writ petitions filed by the petitioner and the orders passed by this Court. The non-selection of her name from being included only could be attributed to the fact that she has been absolved from all charges which were thrown upon her by the State and other Authorities. Therefore, barring the above, the only grievance which can be espoused against the petitioner are the contentions, which have been advanced before this Court. This Court, even for a moment is not against the inclusion of the persons in the Select List of the years 2021 and 2022 nor is it castigating their candidature, but is only pointing out the non-inclusion of the name of the petitioner could also be associated with her not being in a post within the City of Madras or within close proximity to the power center.

35. It is further seen that the first respondent in its counter had claimed that it reserves its right to challenge the order passed in W.P.No.27493 of 2023, which were passed on 13.12.2024, however, as on date, there is no stigma attached to the petitioner for being considered and for being recommended for conferment of IAS by inclusion of her name in the select list for 2023. Even otherwise filing an appeal would not be a deterrent to consider the name of the petitioner for being included in the selection list for the year 2023 unless the order of this Court in the above said writ petition is stayed or set aside. Therefore, the first respondent claimed that the ACR entry which has been set-aside by this Court is appealable and the right is still available with the first respondent, it cannot be a ground to deny the petitioner her rightful consideration to be appointed in the cadre of IAS by conferment. The other contention advanced on behalf of the first respondent for non-consideration of the name of the petitioner for inclusion in the select list for the year 2023 is due to her probation not being approved yet in the cadre of Deputy Collector. It

is the stand of the first respondent that unless the said probation is approved, the petitioner's candidature cannot be considered which is nothing but a whimsical and fanciful reason to deny the promotional benefit to the petitioner.

36. Declaration and approval of probation is only for the purpose of finding out the suitability and acceptability of an employee in the said post for further continuance. The petitioner had been posted as Deputy Collector in the year 2012 itself and thereafter, through a series of petitions, the petitioner also got absolved from all the wrongs committed to her by getting necessary directions from this Court for refixation of seniority for the post of Deputy Collector and also the District Revenue Officer in W.P.No.16862 of 2023, in which order has been allowed to attain finality. When this Court has approved the promotion of the petitioner to the cadre of District Revenue Officer and Deputy Collector by refixation of seniority and inclusion of her name in the panel of the years 2008-2009 and 2012 respectively, it clearly signifies that the work discharged by the petitioner has been found to be suitable and acceptable, and the merit of the petitioner in the discharge of the work was not put in issue by the respondent before this Court. Further, the merit of the petitioner also stands fortified by the fact that the Reporting Authority in her ACR for the

period 16.06.2021 to 31.03.2021 has clearly recorded her appreciation of the commendable work done by the petitioner and had given an overall grading of 9.5 out of 10. Such being the case, it is contended that the probation of the petitioner had not been approved in the cadre of Deputy Collector and unless the same is done and a proceeding is passed, her candidature cannot be considered for recommendation in the Select List for the year 2023 for conferment of IAS cadre, which is nothing but a block of the first respondent to prevent the petitioner's name from being considered.

37. In this regard, it is to be pointed out that as aforesaid, probation is to find out the suitability and acceptability of the employee in a particular post and approval of probation is a formality which merely records the suitability of the employee. However, in the case on hand, the petitioner having been allowed to work and her ACRs have also reflects the suitability of the petitioner in the said post, the mere fact that the proceedings has not been passed by approving the probation of the petitioner cannot be a ground to reject the candidature of the petitioner for being recommended for conferment of IAS by inclusion of her name in the select list. The first respondent is nowhere questioned the said suitability or acceptability of the petitioner in the said post but it only harping

on the proceedings which is a formality, with regard to the continuance of the employee, viz., the petitioner in the post of Deputy Collector by approving the probation. When it is not the case of the first respondent that the petitioner is not suitable to hold the post, the non-issuance of a proceeding approving the probation of the petitioner cannot be held against the petitioner and the continuance of the petitioner in the post of Deputy Collector to the post of District Revenue Officer including refixation of seniority, would have to be deemed to have resulted in the approval of probation of the petitioner in the post of Deputy Collector, even if no proceedings has been passed, as by efflux of time, the continuance of the petitioner in the post of Deputy Collector and further promotion to the post of District Revenue Officer, which has been approved by this Court and which also attained finality would only to be construed, that there had been implied approval of the probation of the petitioner, though no formal proceeding has been issued. This could alone be the logical conclusion that could be arrived at as any other conclusion would be against all cannons of logic and would be nothing but travesty of justice perpetrated against the petitioner.

38. It is also further seen that the contentions raised by the first

respondent is merely aids targeted to scuttle the progress of the petitioner to the next higher post of IAS by conferment by inclusion of her name in the year 2023, which is sought to be achieved by the first respondent, as already been done for the years 2021 and 2022 by movement of persons junior to the petitioner to the coveted category of IAS. The petitioner has 40 years of unblemished service and at each and every instance of her promotion to the next level, she has been targeted by the State from which the petitioner had come out through her perseverance by resorting to legal means. From the counter affidavit, the first respondent has stated that the 3rd respondent/UPSC, by its communication dated 19.01.2024, had called upon the Selection Committee to convene the meeting latest by 31.05.2024 and send the Selection List for the year 2023 and pursuant to the said communication, the first respondent is bound to send the Select List for the year 2023 by 31.05.2024. It is the further stand taken by the first respondent that the seniority of the petitioner has been refixed for the post of Deputy Collector on 21.08.2024, however, the seniority has not been refixed in the cadre of District Revenue Officer, as she has not fulfilled the qualifications and the ACR is not complete and her probation in the post of Deputy Collector has not been declared. Though it is the stand taken by the first respondent and that all the particulars including ACRs of the respective officers, whose names are recommended have to be sent to UPSC while finalising the select list, the petitioner having fulfilled the aforesaid prescription, her name was not sent to UPSC. Whileso, the first respondent claims that the details were sent to UPSC by 31.05.2024, however, the date on which, the Select List, if any, that had been forwarded to UPSC had not been divulged, to this Court.

39. On perusal of the entire records reveals that vide the interim order dated 21.10.2024, a direction was issued by this Court to the first respondent to take action on the orders passed by this Court with regard to the refixation of seniority, more particularly, the order dated 11.09.2023 in W.P.No.16862 of 2023 and the matter was heard on the next date of hearing; there was no information forthwith, which prompted this Court to pass an *status quo* on 30.10.2024. Thereafter, a miscellaneous petition was filed by the petitioner to implead the 2nd and 3rd respondents herein as party to the present writ petition. On the apprehension that the first respondent may try to bypass the petitioner by not including the name of the petitioner, and therefore, the petitioner sought the indulgence of this Court to implead the 2nd and 3rd respondents so that no further orders would be passed on the heels of the order of this Court. This

Court impleaded the 2nd and 3rd respondents for the sake of interest of the petitioner.

40. It is further to be pointed out that though the third respondent had fixed 31.05.2024 as the last date to send the select list for the year 2023, however, nothing prevented the first respondent from refixing the seniority of the petitioner in the post of Deputy Collector and also District Revenue Officer and include her name in the select list for the year 2023. However, without refixing the seniority of the petitioner in the post of District Revenue Officer, thereby committing contempt of Court by flouting the orders of this Court. The first respondent has come before this Court and is trying to shield itself by pointing finger against the petitioner, that the petitioner has not submitted a self assessment and that the probation of the petitioner in the post of Deputy Collector has not been approved. One other aspect, which transpires from the counter affidavit is that on the date when the select list for the year 2023 has been forwarded to UPSC, it is the stand taken by the first respondent that the petitioner was not armed with any orders of this Court for including her name. The said stand taken by the first respondent is totally contrary to the materials available on record and also an act in contempt of this Court as the order dated

11.09.2023, which has attained finality and her representation based on the said order was also available on the files of the first respondent. However, without acting on the said order as well as the representation of the petitioner, the first respondent has not considered the said representation. The first respondent has the temerity to come before this Court and put it on record that on the date when the select list for the year 2023 was sent, the petitioner was not possessed any orders for inclusion of her name in the panel for the post of District Revenue Officer for the year 2013-2014.

41. The learned Additional Advocate General appearing for the first respondent by relied upon the counter that the person immediately senior to the petitioner viz., one Mr.Christy, though was kept in the panel of 2012, but was later pushed to the panel of the year 2013 and was recommended and appointed to the post only by adhering to the panel of the year 2013, and therefore the petitioner cannot claim for the District Revenue Officer in the panel of the year 2012 and given an appointment accordingly. Though such a stand is taken in the counter and also contended by the learned Additional Advocate General appearing for the first respondent, however, it is pointed out by the learned Senior Counsel for the petitioner that the first respondent has not taken any

steps to have a portion of the order passed in W.P.16862 of 2023 reviewed and corrected, and the present submission is made only to drag on the proceedings of the promotion and appointment to which she is duly entitled to and is only purely due to the fault of the first respondent. The said contention has been taken by the first respondent for the first time before this Court and such a contention was not advanced in W.P.No.16862 of 2023. However, it is to be noted that the direction issued by this Court in W.P.No.16862 of 2023 though was to place the petitioner in the panel for District Revenue Officer of the year 2012, but in addition this Court also directed the petitioner should be placed below Mr.Christy, who is the immediate senior and the said Mr.Christry was initially placed in the panel of the year 2012, but was later moved to the panel of the year 2013, and also bringing it to the notice of this Court in WP.No.16862 of 2023, had led to this situation. However, the said error cannot be entertained by this Court to exercise its jurisdiction, as the directions issued by this Court in the earlier round of litigation in W.P.No.16862 of 2023 could be read harmoniously to grant the relief to the petitioner and at the same time not diluting the orders passed in W.P.No.16862 of 2023 by this Court invoking its inherent and extraordinary jurisdiction by directing the first respondent to fix the seniority of the petitioner immediately below Mr.Christy in the panel of the year 2013. It is also found that the petitioner is also eligible to claim all monetary benefits on account of revision of seniority in the post of District Revenue Officer.

42. As already pointed out, it is the duty of the State to approve the probation and make necessary entries in the ACR and it is not for an individual officer to run behind the State to have their probation approved and their ACR filled. When the State has abdicated its responsibilities and is trying to sabotage the career of the petitioner, this Court cannot be a mute spectator to the said act as all along, the petitioner has been targeted from being pointed to the post of IAS for the reasons best known to the State. This Court can very well attribute umpteen reasons for the State trying to scuttle the appointment of the petitioner in the cadre of IAS, but this Court is not writing anything on paper further.

43. It is to be further noted that the communication dated 09.12.2024 given by UPSC, which has been addressed to the Government of Tamil Nadu and the other communication dated 21.01.2025 addressed to the learned Senior Panel Counsel for UPSC have been placed before this Court by circulation and the learned counsel for UPSC would state that this letter has already been

circulated to the other side also, though the communication is addressed to the Chief Secretary to the Government. The present case was filed by the petitioner and has sought for the action taken on behalf of the State Government, by specifically pointing out that a portion of the order has been complied with, while the other portion of the order pertaining to the refixation of seniority in the post of District Revenue Officer is yet to be complied with and has also sought for the view of the State on the aforesaid refixation. For better appreciation, the same can be extracted hereunder:

Gmail

Advocate Chandrasekaran <vchandru.adv@gmail.com>

WP No.31403/2024 filed by MS.Sardha Rukmani before High Court of Tamil Nadu

2 messages

AIS UPSC <aisupsc2@gmail.com>
To: Advocate Chandrasekaran <vchandru.adv@gmail.com>

21 January 2025 at 16:01

Sir,

The Government of Tamil Nadu vide D.O. letter No. 202/A2/2024-6 dated 16.11.2024 have submitted a proposal for the preparation of the Select List of 2023 for promotion of SCS officers to IAS of Tamil Nadu Cadre.

2. On examination of the proposal, it was observed that vide judgement dated 11.09.2023 in WP No.16862/2023 filed by Ms.Saradha Rukmani, the Hon'ble High Court had directed the Government of Tamil Nadu to refix the seniority of Ms.Saradha Rukmani in the cadre of Deputy Collector and Divisional Revenue Officers. In compliance of the same, the name of Ms.Saradha Rukmani has been included in the cadre of Deputy Collectors of the year 2008-09. However, the State Government had further informed that the name of Ms. Saradha Rukmani is yet be refixed in the cadre of Divisional Revenue Officers. The State Government has been requested vide letter dated 09.12.2024 (copy enclosed) to clarify the same. The reply of the State Government is awaited.

3. Further, the fixing of seniority of State Service officers is the exclusive domain of the State Government. Submissions made by the State Government may be referred in this regard.

Shri Deepak Shaw,

Under Secretary (AIS)

DL dated 9.12.2024.pdf
210K

Advocate Chandrasekaran <vchandru.adv@gmail.com>
To: AIS UPSC <aisupsc2@gmail.com>

21 January 2025 at 16:08

Noted with thanks

Regards,
V. Chandrasekaran

"F. No. 6/18/2024-AIS

Union Public Service Commission

Dholpur House, Shahjahan Road,

New Delhi-110069.

9 December, 2024

To,

The Chief Secretary,

Government of Tamil Nadu,

Secretariat, Chennai.

[Kind Attn: Ms. Reeta Harish Thakkar, Secretary (Public & Rehabilitation Department)]

Sub: Selection Committee Meeting to prepare the Select List of 2023 for promotion of SCS officers to the IAS of Tamil Nadu Cadre-Reg

I am directed to refer to Government of Tamil Nadu's D.O. letter No. 202/A2/2024-6 dated 16.11.2024 on the above mentioned subject and to say that the following deficiencies have been observed:

(i) In the covering letter, it has been indicated that as per Section 17 A(1) of the PC (Amendment) Act, 2018, the Government have granted prior permission to the Directorate of Vigilance and Anti Corruption (DVAC) Chennai to include the name of MS. Gandhimathi as additional accused in Regular case no. RC 236/2021/PUB/HQ vide Government letter dated 25.06.2022. It has also been indicated that DVAC has requested to accord sanction to prosecute Smt. Gandhimathi based on the outcome of the investigation report in RC 236/2021/PUB/HQ and recommended by the Tamil Nadu Vigilance Commission on 05.01.2024 and it is under process. **Since, it has been more than 11 months since the recommendations of the Tamil Nadu Vigilance Commission, the State Government is requested to confirm the current status of the case.**

(ii) Further, the integrity of Ms. Gandhimathi has been withheld stating that the Director, Vigilance and Anti-Corruption in his letter dated 19.03.2024, has informed that two charge sheets separately with regard to the allegations of tender irregularities in Greater Chennai City Corporation and Coimbatore Municipal Corporation were filed against ThiruS.P.Velumani formerly Minister for Municipal Administration, Rural Development and Special Programme Implementation, Government of Tamil Nadu, now MLA, Thondamuthur Assembly Constituency and others before the Learned Special Court for the cases under Prevention of Corruption Act, Chennai and assigned as CC Nos.225/2024 and 226/2024. **The State Government is requested to clarify whether Ms. Gandhimathi has also been included as an accused in CC Nos.225/2014 and 226/2024. If yes, the case needs to be indicated in the statement of criminal proceedings.**

(iii) It is observed that the officers in the cadre of Deputy collectors in the Select List of 2006-07 have been promoted to DROs of the Select List of 2013-14 whereas Shri R.Rajendran who also appears at S.No. 16 in cadre of Deputy Collectors in the Select List of 2006-07 and has been confirmed on 07.02.2016 with continuous service since 07.02.2014 (ie. more than years) has been promoted to DROs of the Select List of 2016-17 and accordingly, has been excluded from the zone of consideration. **The State Government is requested to furnish the reasons for placing the officer in the Select List of 2016-17 of DROs and reason for subsequent exclusion from the zone of consideration.**

(iv) The State Government have further informed that vide judgement dated 11.09.2023 in WP No.16862/2023 filed by Ms.Saradha Rukmani, the Hon'ble High Court had directed the Government of Tamil Nadu to refix the seniority of Ms SaradhaRukmani in the cadre of Deputy Collector and Divisional Revenue Officers. In compliance of the same, the name of Ms.Saradha Rukmani has been included in the cadre of Deputy Collectors of the year 2008-09 at S.No.144A, below Shri S.Christy vide GO dated 21.08.2024. However, the State Government have further informed that the name of Ms. Saradha Rukmani is yet be refixed in the cadre of Divisional Revenue Officers. From the above, it may be seen that there are clear directions of the Hon'ble High Court in this regard and the State Government has already complied it in part. It appears that Ms. Saradha Rukmani if included in the list of DROs will become eligible for consideration for the Select List of 2023.

In view of this, the State Government may be requested to clarify whether they are going to implement the Orders of Hon'ble High Court dated 11.09.2023 or not."

44. From the above, it is evident that sitting on the directions issued by this Court without complying with it, the State, for reasons best known to it had forwarded the names of other persons, who are juniors to the petitioner. The

reason for such an act on the part of the State has not been spelt out for whimsical reasons such as ACRs yet to be written and probation is to be approved dating back to a decade, which has been put against the petitioner to reject the case of the petitioner and keep her name from being recommended to be included in the Select List for the year 2023. It is not as if the State was not aware of the present case pending before this Court and also the various directions issued by this Court. Further, the State had accepted the order passed in W.P.No.16862 of 2019 dated 11.09.2023 and refixed the seniority of the petitioner in the post of Deputy Collector, but has not taken the requisite steps to refix the seniority of the petitioner in the post of District Revenue Officer. The only query that passes in the mind of this Court, is whether the reasons put forth are true reasons or to defeat the rights of the petitioner from being conferred IAS; the State is acting prejudicially to the welfare of the petitioner. This Court, though has posed the question to itself for which it very well knows the answer, but this Court does not want to spell that answer in black and white. When the first respondent has complied with portion of the order, and the other portion of the order also has to be complied with immediately so that the petitioner could relish the benefits. It is not for the State to defeat the rights of the petitioner by sleeping over the matter of refixation of seniority for reasons, which are purely attributable to the governance of the State and could, by no stretch, be attributed to the petitioner. The State cannot abdicate its responsibility in not acting properly and diligently on the orders of this Court and throw the blame on the petitioner by merely stating that it was the act of the petitioner which has led to the present position.

45. Infact, it is further noted that after the letter written to the Chief Secretary to the Government dated 09.12.2024, in the absence of any communication from the State, UPSC, had not acted on the proposal and had addressed a communication to the Senior Panel Counsel calling for the requisite details with regard to the case of refixation of the petitioner's seniority as well as the status of the present case.

46. Only to safeguard the interests of the petitioner, this Court had impleaded the UPSC as the 3rd respondent, which clearly reveals the forethought of this Court in passing the said order.

47. Once, it has come to the notice of this Court that the authorities, for extraneous considerations resort to victimization of their employees, inspite of

the employees being honest and straight-forward and the State should act as the model employer to others, however, brushing aside the same, the State has embarked upon a victimizing attitude in the present case, which made the petitioner to run from pillar to post to get herself absolved of the delinquencies. The petitioner had not only discharged her work well, but the petitioner also received the appreciation from her Reporting Authorities, who have given her a superfluous assessment, which clearly shows that the petitioner has been targeted for other reasons and this Court hopes and trust that henceforth, the State shall see to it that none of the officers suffer the wrath of persons merely for certain extraneous reasons which are makeshift reasons shown to be connected with the employment of the said officer as that would not only boost the image of the State, but also would act as a antidote for the unscrupulous authorities from scuttling the progress of individual employees, who discharged their work, without fear or favour and thereby uplift the image of the Government in the eyes of the general public.

48. For the reasons aforesaid, this Writ Petition deserves to be allowed and accordingly, the same is allowed with the following directions:

(i) The first respondent, after refixing the seniority of the petitioner below Mr.Christy in the cadre of

District Revenue Officer and upon completing the ACRs of the petitioner in the said cadre as also the earlier cadres, is directed to include the name of the petitioner in the Select List for the year 2023 and forward the same to the second and third respondents namely, The Secretary to Government of India, Ministry of Personnel, Public Grievances and Pensions and the Union Public Service Commission and the aforesaid exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order.

(ii) On receipt of the Select List for the year 2023 from the first respondent, the 2nd and 3rd respondents are directed to consider the candidature of the petitioner, recommended by the first respondent for appointment to the cadre of IAS and pass appropriate orders thereon in accordance with law, within a period of three weeks from the date of receipt of such recommendation.

(iii) There shall be no order as to cost. Consequently, connected Miscellaneous Petitions are closed.

17.02.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
jd

To
1. The Secretary to Government of Tamil Nadu,
Public Department,
Secretariat, Chennai 600 009.
2. The Secretary to Government of India,
Ministry of Personnel, Public Grievances and Pensions, (Department of Personnel and Training), New Delhi -1.
3. The Secretary,
Union Public Service Commission, New Delhi 69.

V.BHAVANI SUBBAROYAN,J.,

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