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WP No. 33078 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 09-07-2025

PRONOUNCED ON: 26-08-2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP Nos. 33078 & 35270 of 2024

AND

WMP NO. 35833 OF 2024, WMP NO. 38181 OF 2024, WMP NO. 38182 OF 2024, WMP NO. 38183 OF 2024 and WMP NO. 35832 OF 2024

1. A.P.Gnanaprakasam
S/o.Pachaiyappan,
77, Ezhil Nagar, 4th Street,
Surapet, Chennai-66.

Petitioner(s)

Vs

1. The Government Of Tamil Nadu
Rep. By Its Secretary, Municipal
Administration And Water Supply
Department, Secretariat, Chennai-9.

2.Chennai Metropolitan Water Supply
And Sewerage Board, Rep. By Its
Managing Director,
No.1, Pumping Station Road,
Chintadripet, Chennai-2.

Respondent(s)

WP No. 35270 of 2024

1. N.Rajamohan
S/o.S.Nagarajan,
No.3/2, Nattu Subbaraya Street,
First Lane, Mylapore, Chennai- 4.

2.J.Kamalanathan
S/o.G.Jeevarathinam,
No.3/1, Teeds Garden, 5th Street,
Sembiam, Chennai-11.

Petitioner(s)

Vs

1. The Government Of Tamil Nadu



Rep By Its Principal Secretary,
Municipal Administration And Water
Supply Department, Secretariat,
Chennai- 9.

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2.Chennai Metropolitan Water
Supply
And Sewerage Board, Rep By Its
Managing Director,
No.1, Pumping Station Road,
Chintadripet, Chennai- 02.

Respondent(s)

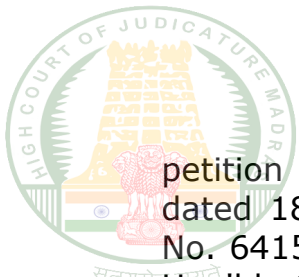
PRAYER

Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records in respect of the impugned letter issued by the secretary to the 1st respondent in Letter e file No.2332/ MW (2) / 2023-4 dated 18.10.2024 and quash the same and consequently to direct the respondents to revise the seniority of Assistant Engineers of the petitioner's batch based on their merit in their initial selection as Assistant Engineers, further to revise their consequent promotions made to the category of Assistant Executive Engineer based on the seniority so revised based on merit and to make further promotions as Executive Engineer, Superintending Engineer and Chief Engineer accordingly based on such merit based seniority so revised as directed by the Honourable Supreme Court vide orders dated 01.10.2021 passed in contempt petition No.638 of 2017 and the orders of the Honourable Supreme Court dated 18.04.2023 and 09.05.2024 passed in Contempt Petition Diary No.6415 of 2021 and batch within a time frame as may be fixed by this Honourable Court.

WP No. 35270 of 2024

PRAYER

Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records in respect of the impugned letter issued by the principal secretary to the 1st respondent in Letter e. file No. 2332 /MW (2) / 2023 - 4 dated 18.10.2024, and quash the same, and consequently to direct the respondents to revise the seniority of Assistant Engineers of the petitioners batch based on their merit in their initial selection as Assistant Engineers, further to revise their consequent promotions made to the category of Assistant Executive Engineer based on the Seniority so revised based on merit and to make further promotions as Executive Engineer, Superintending Engineer and Chief Engineer accordingly based on such merit based seniority so revised as directed by the honble Supreme Court vide orders dated 01.10.2021 passed in contempt



petition No. 638 of 2017 and the orders of the Honble Supreme Court dated 18.04.2023 and 09.05.2024, passed in Contempt petition diary No. 6415 of 2021 and batch, within a time frame as may be fixed by this Hon'ble Court.

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For Petitioner(s): Mr.N.Subramaniyan
(in both WPs)

For Respondent(s): Mr P. Wilson Senior Counsel
For Mr.C.Selvaraj, AGP For R1
M/s. Dr.N.Paul Sunder Singh
SC For R2
(in both WPs.)

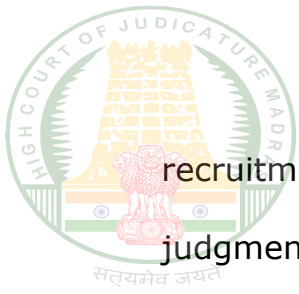
COMMON ORDER

The prayer and the issue involved in both the writ petitions are similar. Hence, both the writ petitions are taken together for common disposal.

2. The petitioners in both the writ petitions are working in the 2nd respondent-Department. For convenience sake, the pleadings in respect of WP.No.33078 of 2024 has been considered to arrive at a conclusion.

3. Heard Mr.N.Subramaniyan, learned counsel for the petitioners and Mr.P.Willson, learned Senior Counsel appearing on behalf of Mr.C.Selvaraj, learned Additional Government Pleader for the first respondent and Dr.N.Paul Sunder Singh, learned standing counsel for the 2nd respondent.

4. It is the contention of the learned counsel for the petitioners that the petitioners were initially appointed as Assistant Engineer by direct



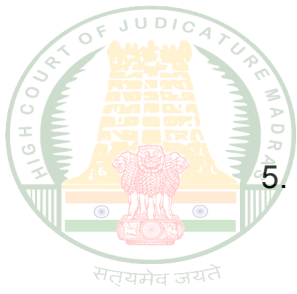
recruitment, and that their appointment was after 10.03.2003 qua the judgment of the Hon'ble Apex Court in **Bimlesh Tanwar Vs. State of**

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Haryana & Ors. (2003) 5 SCC 604. Therefore, as per the direction of the Hon'ble Supreme Court vide order in Contempt Petition (Diary)No.6415 of 2021 dated 01.10.2021, 18.04.2023 and 09.05.2024, the seniority of the direct recruits has to be revised in accordance with their merits, instead of community roster point.

5. The said contention was strongly objected by the learned Senior counsel upon the following grounds:-

1. The Writ Petition is not maintainable for not impleading necessary parties i.e the candidates declared eligible for promotion under the draft panel of promotion in the teeth of the Rule 16 of the Madras High Court Writ Rules, 2021?
2. The petitioner cannot be considered as the person aggrieved and has no locus standi to challenge the letter dated 18.10.2024 issued by the 1st respondent to 2nd respondent which is nothing but a departmental communication? And on that score the Writ Petition is liable to be dismissed in *limine*.
3. The Writ Petition is not maintainable as it is hit by principles of delay and latches.
4. The petitioner has failed to demonstrate the violation of their alleged constitutional rights by not challenging the proceedings of the 2nd respondent dt. 01.10.2024 which published the draft panel for promotion to the category of Executive Engineer and the Regulation 14 r/w 21(a) of the CMWSSB General Service Regulations 1978 prescribing roster method in following reservations in the initial selection.



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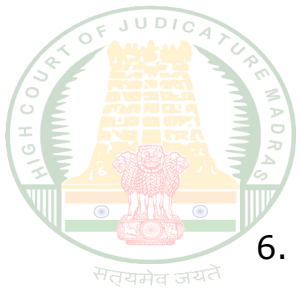
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5. The judgment of the Hon'ble Supreme Court in **Bimlesh Tanwar Vs. State of Haryana & Ors. (2003) 5 SCC 604**, is not applicable to the case in hand as the reservation is based on roster system and hence respondent is bound by Regulation 21(a) r/w 14(v) and this case is covered by the decision of the Hon'ble Supreme Court as rendered in **R.K.Sabharwal and Ors V. State of Punjab & Ors. (1995) 2 SCC 745, All India Judges Association & Ors Vs. Union of India & Ors. (2002) 4 SCC 247**.
6. This Hon'ble Court cannot pass any directions contrary to the mandate of the Regulation 14 r/w 21(a) of the CMWSSB General Service Regulations 1978 in absence of any challenge to its constitutional validity?
7. This Hon'ble Writ Court cannot traverse beyond the pleadings of the Writ Petition and grant a relief which is not prayed for by the Writ Petitioner?
8. The petitioner is not beneficiary of Regulation 14 of 200 roster point system of the Employees' Service Regulations 1978 of CMWSS Board, and his appointment is through Employment Exchange under General Category.

The learned Senior Counsel has also relied upon the following judgments in support of his contentions:-

- (i). **R.K.Sabharwal and Ors V. State of Punjab & Ors.** Reported in **(1995) 2 SCC 745**,
- (ii). **All India Judges Association & Ors Vs. Union of India & Ors.** reported in **(2002) 4 SCC 247**
- (iii). **Bimlesh Tanwar Vs. State of Haryana & Ors.** reported in **(2003) 5 SCC 604**
- (iv). **Amarjeet Singh and others Vs. Devi Ratan and others** reported in **(2010) 1 SCC 417**
- (v). **Cherukuri Mani Vs. Chief Secretary** reported in **(2015) 13 SCC 722**.



6. I have given my anxious consideration to either side submissions.

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7. It is an admitted fact that the petitioners were appointed on 24.02.2010 and that their seniority was fixed under Regulation No.21(a) of the General Regulations of CMWSSB Board. It is further admitted fact that they have been promoted to the post of Assistant Executive Engineer on 30.01.2017. It is equally an admitted fact that this Court in respect of revenue department vide judgment dated 31.03.2015 directed the Government to revise the seniority based on merit, as per Rule 35(a) of the Tamil Nadu State and Subordinate Service Rules. Subsequently, aggrieved with the order, when the Government filed an appeal, the Hon'ble Supreme Court, in Contempt Petition (Diary) No.6415 of 2021 confirmed the merit based seniority and directed to revise the seniority of the employees on the basis of merit against those who have been selected and appointed after 10.03.2003 namely the date of **Bimlesh Tanwar's** case [cited supra] judgment. It is the further submission of the petitioners that, when all other Departments followed the above Hon'ble Supreme Court judgment, the same was not followed in the respondent-Department.

8. It appears that the petitioners had sent the representation to the 2nd respondent, but the same was rejected on 18.10.2024 on the following grounds:-



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"I am directed to invite attention to your letter cited, wherein it has been requested to clarify, whether, fixation of seniority has to be made based on the merit of the candidates, as per the directions issued in the Government Letter No.2730/HRM/S-Spl2022-39 dated 06.07.2023.

2. In this regard, I am to state that in the judgment dated 18.04.2023 in C.P.(C) Dairy No.6415 of 2021, it has been directed to revise the seniority of the candidates based on the merits of the candidates who have been appointed through TNPSC. Hence the said judgment is applicable to the appointments made through Tamil Nadu Public Service Commission."

9. The above letter is impugned in the present writ petition. According to the respondents, since the selection was not through TNPSC, the judgment in C.P (C) (Dairy).No.6415 of 2021 dated 18.04.2023 is not applicable.

10. Now, let us test, whether the above reason is justifiable or not?

11. Though the impugned order discloses the above reason for rejection, in the counter statement, they have raised numerous other defence. Based on which, the learned Senior Counsel has raised the above legal submissions before this Court. Now, to decide this issue, let us consider the submissions of the learned Senior Counsel one after another.

12. Coming to the defence of maintainability on the basis of non-joinder of necessary parties, and the locus standi, the contention of the



learned Senior Counsel is that, if any order is passed in the present writ petition, it would affect numerous other persons. Therefore, unless those persons are impleaded as parties to the present writ petition, the present writ petition is not maintainable and liable to be dismissed on the above grounds. To answer the above submissions, the learned counsel for the petitioner would draw the attention of this Court about the Division Bench judgment of this Court in **N.Santosh Kumar Vs. Tamil Nadu Public Service Commission**, reported in **2015 SCC OnLine Mad 362**, and would rely upon the ratio and would submit that when the issue involved in the cases are not individualistic in nature, and that when the issue involved is, general in nature and relates to the very foundational principle in determining the seniority, the question of impleading all the affected persons does not arise.

13. For ready reference, this Court deems it appropriate to extract paragraph 37 of the above cited judgment:-

"37. Moreover, the contesting respondents have lost sight of three important things, while pitching their claim on the basis of Rule 35(f). These three facts are:-

(i) The third and last limb of Rule 35(f) makes the bar of limitation prescribed under the first two limbs, inapplicable to cases of rectification of mistake of facts.

(ii) The cases on hand are not individualistic in nature, depending upon individual dates, facts and sequence of events. The cases on hand arise out of a most fundamental question as to the principle of law to be applied in the matter of fixation of seniority. The grievance of the writ petitioners was not individualistic, depending for their adjudication, upon distinct facts. These cases question the very foundation on which seniority was sought to be determined on principle. To such cases, the enabling provision under Rule 35(f) entitling the department to summarily reject the claim of the individuals, cannot be invoked.



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(iii) As we have pointed out earlier, the decision of the Supreme Court in Bimlesh Tanwar was rendered only on 10.3.2003. It was only thereafter, that the Chief Engineer issued proceedings dated 29.4.2004 fixing the seniority of the selectees on the basis of the Government Circular following the ratio laid down in P.S. Ghalaut. Therefore, the writ petitioners cannot be expected to make a representation before the decision of the Supreme Court in Bimlesh Tanwar. Hence the whole argument revolving around Rule 35(f) is fallacious.”

Here what the petitioner wants to direct the department to follow the Supreme Court Judgment referred in Contempt Petition No.638 of 2017. He did not seek to fix his seniority, but he claims the seniority of all the members of his service based on the Supreme Court judgment, which judgment is in the nature of “judgment-in-rem”.

14. Therefore, as rightly contended by the learned Counsel for the petitioner, the issue involved in the present writ petitions though appears to be an issue relates to individual seniority issue, while looking at the prayer, it only attacks the fundamental principle of fixing the seniority. In such view of the position, the non impleadment will not stand in the way of proceeding further in the writ petition.

15. It is pertinent to mention that when **N.Santhosh Kumar's** case [cited supra] was challenged before the Hon'ble Supreme Court in SLP.(C) Nos.2890-**22098** of 2015, the Hon'ble Supreme Court while confirming the decision of the Hon'ble Division Bench in **N.Santhosh Kumar's** case, has held as follows:-

“The fundamental principle which has been applied by

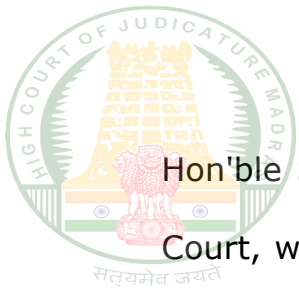


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the Division Bench in the cases on hand relates to the question as to what should be the basis for drawing a seniority list. In that context, the Division Bench has noted that at the time when the Service Commission drew the list in 2000 the same was in tune with the judgment of this Court in P.S.Ghalaut Vs. State of Haryana and others, reported in (1995) 5SCC 625. The Court also found that the said list which was approved by the State Government did not achieve the finality and that ultimately when the seniority list came to be issued on 29.2.2004, by which time the judgment of this Court in Bimlesh Tanwar v. State of Haryana and others reported in (2003) 5 SCC 604 had come into effect which reversed the judgment in Ghalaut (supra). The Division Bench, therefore, held that there was no delay in the challenge made to the seniority list. **After the emergence of the judgment in Bimlesh Tanwar (supra)**, the fundamental principle relating to drawl of seniority list was that it should be based on merit list of selection and that the list drawn based on roster point can have no application for the purpose of seniority list."

Since the judgment of **N.Santhosh Kumar's** case [cited supra] was not complied with, the petitioner therein moved a contempt application. In the said Contempt Application, the Hon'ble Supreme Court directed to revise the seniority in accordance with the merits. Subsequently, vide order dated 18.04.2023, the Hon'ble Supreme Court clarified that, the cut off date for such exercise is the date of judgment in **Bimlesh Tanwar's** case [cited supra] and held that any revision in seniority should be in respect of the candidate, who was appointed subsequent to 10.03.2003. Therefore, it is crystal clear that according to Supreme Court ratio, the seniority should be based upon the merits, and the roster point would only aid to arrive at vacancy under different communal category.

16. Coming to the next defence of locus standi, as we all know under Article 141 of the Constitution of India, any order passed by the



Hon'ble Supreme Court and the ratio laid down by the Hon'ble Supreme Court, will become law of land. In respect of "locus standi" and a "person

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aggrieved", the another argument put forth by the learned Senior Counsel is that the impugned letter is only a inter office communication, therefore, the petitioners are not aggrieved. According to the petitioner, when the authority did not follow the order of the Hon'ble Supreme Court qua the law of the land, every citizen who is affected by such non adherence is entitled to approach the Court for Mandamus. Therefore, this Court finds that the petitioners have got "locus standi" and he become a "person aggrieved".

17. The next defence put forth by the learned Senior Counsel is that, the delay and latches. As rightly contended by the learned counsel for the petitioner, though the petitioners were appointed during 2010 based upon the then prevailing practice, subsequently, when the law was declared and interpreted by the Apex Court during 2023, this Court does not find any reason for delay and latches, as the petitioners' cause of action has commenced only during 2023. Therefore, the petitioners are not at all delay in approaching this Court. Apart from that, the non compliance of Supreme Court ratio is continuing cause of action.

18. Further, the argument of the respondent that they follow a different service Rules and the Selection was not made through TNPSC, were all raised without understanding the effect of the judgment, as it is



in the nature of judgment in rem. Therefore, this Court finds that the petitioners are the persons aggrieved and got locus standi to institute the writ petitions and in such institution, there is no delay.

19. Yet another submission of the respondent is that, unless the petitioners challenge Regulation 14 r/w 21(a) of CMWSSB General Service Regulation Act, 1978 qua the provision which prescribe roster method, the petitioner cannot seek for any revision of seniority. The argument of the learned Senior Counsel is too late in the day, as the similar position has been dealt while analysing pari materia Rule 35(a) of the General Rules for Tamil Nadu State and Subordinate Services, which is similar to Rule 21(a) of CMWSSB Act. This Court in **N.Santhosh Kumar's** case [cited supra] has clarified that Section 35(a) deals only the rank obtained by him in the list of approved candidates drawn up by the Board. Therefore, even according to Section 21(a) of CMWSSB Act, which is identical to Section 35(a) of Tamil Nadu State Subordinate Services, what it prescribes for seniority is, the rank obtained from the Board. When such position has been clarified and confirmed by the Hon'ble Supreme Court in **N.Santhosh Kumar's** case [cited supra], the non compliance is nothing but, overreaching the orders of the Hon'ble Supreme Court.

20. The learned Senior Counsel has attempted to distinguish by contending that, when Regulation 21(a) of CMWSSB Act provides for a roster based reservation, the judgement to be applicable is only, **R.K.Sabharwal's** case [cited supra] and **All India Judges'**



Association's case [cited supra] and not the **Bimlesh Tanwar's** case [cited supra]. As already discussed, Regulation 21(a) read with Article 14

WEB COPY (v) only prescribes the seniority based upon the rank obtained in the Board. But, the same should be subject to the Rules of reservation. This was clarified in the Tamil Nadu State and Subordinate Service Rules, wherein, it has been held that the communal roster point is relevant only to determine the community based vacancy. However, after the vacancy determined and selection took place, the seniority should be based upon the merits/ranks obtained by them in the list approved by the Board.

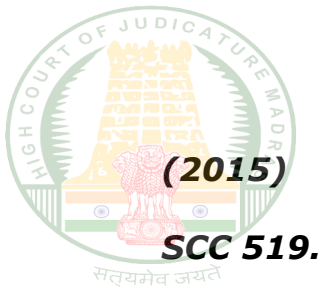
21. In view of the above finding, the contention of the respondent that this Court cannot go into the validity of Regulation 21(a), and cannot grant relief beyond the prayer, does not arise at all, as this Court has not touched the validity of the Rule, but simply followed the ratio laid down in a pari materia Rule which clarified that the seniority is only based upon the merits.

22. The learned Senior counsel would rely upon the judgment of **Amarjeet Singh's** case [cited supra] and would contend that the consequential order cannot be challenged without challenging the statute. As already stated, though there is no challenge for the Rules, according to the Hon'ble Supreme Court ratio, the existing Regulation 21(a) would only determine the seniority based upon the merits. Accordingly, there is no necessity arises for the petitioners to challenge the said provisions. Hence, the contention that the petitioners have only challenged the consequential orders is misconceived.



23. Similarly, the learned Senior Counsel by relying upon the yet another judgment of **Cherukuri Mani's** case [cited supra] would contend that, where the law prescribes a thing to be done in a particular manner following a particular procedure, then the same should be done in the same manner following the provisions of law, without deviating from the prescribed procedure. Absolutely, this Court has no grievance in the above well settled proposition of law. Even in this case, what this Court emphasis is to follow the said principles as interpreted by the Hon'ble Supreme Court in **N.Santhosh Kumar's** case [cited supra]. As already stated, this Court did not go into the validity of any act. Therefore, the contention that this Court should not go into the repugnance of the act does not arise, therefore the rulings in **Dhanraj's** case [cited supra] is not applicable to the facts of the case.

24. The learned Senior Counsel also relied upon Rule 16 of Madras High Court Writ Rules, 2021 and would contend that the affected parties are not party before this Court. As already discussed hereinabove, the issue raised in the present writ petition is not individualistic in nature. Therefore, this Court is of the view that there is no necessity to implead all the respondents, on the other hand, the Department is otherwise bound by the decision of the Hon'ble Supreme Court. In the facts of the present case, such impleadment would be totally futile exercise in regard to the law laid down in **N.Santhosh Kumar's** case [cited supra]. In this regard, it is appropriate to refer the judgement of the Hon'ble Supreme Court of India in **Dharam** reported in



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25. In the result, these writ petitions are allowed and the impugned order dated 18.10.2024 is hereby quashed and the respondents are directed to revise the seniority in accordance with the order of the Supreme Court dated 01.10.2021 made in Contempt Petition No.638 of 2017 and the orders dated 18.04.2023 made in C.P.(C) (Diary)No.6415 of 2021, within a period of four(4) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected WMPs are also closed.

26-08-2025*Kmi/kv*

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

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To

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Rep. By Its Secretary, Municipal
Administration And Water Supply
Department, Secretariat, Chennai-9.

2.Chennai Metropolitan Water Supply
And Sewerage Board, Rep. By Its
Managing Director, No.1, Pumpign
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C.KUMARAPPAN J.

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