



WEB COPY

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.02.2025

Pronounced on : 17.03.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.766 of 2024

1.P.S.Balamurugan
2.M.Chinnathambi
3.M.Saravanan

.. Petitioners

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Revenue and Disaster Management Department,
Service wing, Services 3(2) Section,
Secretariat, Chennai – 600 009.
- 2.The Additional Chief Secretary /
Commissioner of Revenue Administration,
Chepauk, Chennai – 600 005.
- 3.The District Collector,
Salem District, Salem – 636 001.
- 4.The District Revenue Officer,
Salem District, Salem – 636 001.
- 5.R.Revathi,
Deputy Tahsildar,
Pethanaikenpalayam Taluk Office,
Salem District – 636 001.



6.R.Muruganandham,
Head Assistant,
Collectorate Salem,
Salem District – 636 001.

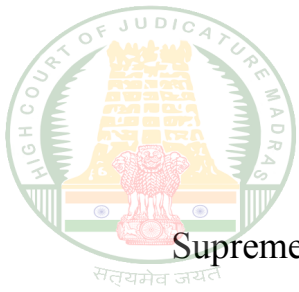
7.G.Sridhar,
Deputy Tahsildar
Salem Taluk Office,
Hasthampatti, Salem District – 636 007.

8.S.Ramakrishnan,
Deputy Tahsildar,
Yercaud Taluk Office,
Salem District – 636 602.

9.P.Dhanasekaran,
Formerly Deputy Tahsildar,
A Section, Collectorate,
Salem District – 636 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records from the 1st respondent in respect of G.O. (1D) No.546, Revenue and Disaster Management Department, Service Wing, Services 3 (2) Section, dated 29.8.2022, from the 2nd respondent in respect of issue of Letter in Ser, 3 (2) / 32701 / 2018, dated 23.05.2023 and from the 3rd respondent in respect of Notification in Roc. No.8565/ 2019/ (A7) dated 26.08.2022 and Notification in Pdl. 30/ 2019- 2021 (A-7), dated 13.09.2022 and quash the same and all other consequential proceedings issued thereunder and consequently to direct the respondents 1 to 3 to redraw the panels for appointment to the category of Deputy Tahsildar in Salem District Revenue Unit for the years from 2013 to 2021 as directed by the Honble



Supreme Court vide Judgement dated 11.09.2018 passed in C.A. (C) No.9334 of 2018, judgement dated 12.03.2019 passed in C.A. (C) No. 251- 256 of 2015 and order dated 18.04.2023 passed in Contempt Petition (C) D.No. 6415 of 2021 by taking the estimated vacancies deducting the leave reserve and unexpected contingent vacancies or the number of actual appointments made during the respective panel years whichever is higher and without carrying over the unfilled SC / ST- reserved category vacancies in a particular panel, that fall within the leave reserve and unexpected contingent vacancies, to the next panel year and in accordance with relevant statutory provisions and accordingly consider the petitioners names for inclusion in the so redrawn panel for the year 2017 and to treat the petitioners as notionally appointed as Deputy Tahsildars on 24.05.2018, the date of appointment of the last panel list in the said revised panel for the year 2017 with all consequential service and monetary benefits within a time frame as may be fixed by this Honble Court.

For Petitioner .. Mr.N.Subramaniyan

For R1 to R4 .. Mr.Haja Nazirudeen, AAG
Assisted by Ms. V.Yamuna Devi, SGP
Mr.R.Hari babu, Govt. Advocate.

For R5 to R9 .. Notice served

ORDER

This writ petition has been filed in the nature of a Certiorarified Mandamus seeking records of the 1st respondent relating to G.O.(1D).No.546, Revenue and



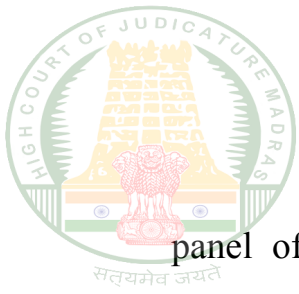
Disaster Management Department dated 29.08.2022 and of the 2nd respondent letter dated 23.05.2023 and of the 3rd respondent relating to notifications in Roc.No.8565/2019/(A7) dated 26.08.2022 and in Pdl.30/2019-2021(A7) dated 13.09.2022 and quash all and to direct the 1st to 3rd respondents to redraw the panel for appointment to the category of Deputy Tahsildar in Salem District Revenue Unit for the years 2013 to 2021.

2.In the affidavit filed in support of the writ petition, it had been contended that the writ petitioners and the 5th and 6th respondents had been selected by TNPSC through Combined Subordinate Services Examination – I to be appointed in Salem Revenue Unit as Revenue Assistants, which post had been subsequently re-designated as Senior Revenue Inspector. They were all appointed by proceedings dated 06.03.2012 and joined the service on 14.03.2012, 04.04.2012 and 12.03.20212 respectively. The 5th and 6th respondents joined the services on 08.03.2012. The petitioners were placed in seniority numbers 39, 41, 42 and the 5th and 6th respondents in 14 and 15. The 7th and 9th respondents were Assistants promoted from Ministerial Service and it is claimed that they were juniors to the petitioners in the category of Assistants. The post of Assistant in Revenue Department is called Revenue Assistant. They are either directly recruited with



minimum educational qualification of being a graduate through TNPSC or promoted from the post of Junior Assistant. After five years of service as Assistant, the direct recruit Assistant is eligible to be recruited by transfer as Deputy Tahsildar. The Assistants who had completed 8 years as Junior Assistants can also be considered to be posted as Deputy Tahsildars. The crucial date for consideration to be placed in the panel for recruitment by transfer for the post of Deputy Tahsildar is 5th September every year. The category of the Deputy Tahsildar is a District cadre post. The petitioners claimed that they had completed 5 years of service on or before 15.09.2017 and therefore, they were entitled to be considered for inclusion in the panel for recruitment by transfer to the cadre of Deputy Tahsildar for the year 2017. It is contended by the petitioners that preference should be given to direct recruits while considering such empanelment.

3.It is claimed by the petitioner that the Hon'ble Supreme Court by judgments dated 01.10.2021 and 18.04.2023 in C.P.No.638 of 2017 and C.P.D.No.6415 of 2021 had directed that the seniority list of direct recruits selected after 10.03.2003 should be redrawn on the basis of merit. Further, by an order dated 11.09.2018, the Hon'ble Supreme Court had directed to revise the

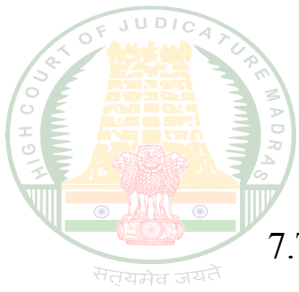


panel of Deputy Tahsildars from the year 2004 by applying the principle of reservation in the cadre of Deputy Tahsildar.

4.It is not in dispute that the seniority had been redrawn in accordance with the directions of the Hon'ble Supreme Court.

5.However, complaining that the vacancies which existed prior to the crucial date had not been taken into consideration, the 1st petitioner filed W.P.No.10916 of 2019 in the nature of a mandamus seeking to redraw the panel. That particular writ petition is pending.

6.Thereafter, the 2nd respondent had issued a circular to all the District Collectors to implement the order of the Hon'ble Supreme Court dated 12.03.2019. The 1st petitioner had given a representation claiming that such representation was not acted upon, he filed W.P.No.26604 of 2019 to consider him to be included in the panel for the year 2017. Thereafter, he also filed Cont.P.No.917 of 2020. A compliance affidavit was filed by the 3rd respondent. The contempt petition was closed by order dated 18.12.2020.



7.The petitioners then examined the revised panel for the year 2009 – 2018 published on 10.12.2020. They claim that it had been unlawfully drawn. It had been stated that 16 Deputy Tahsildars who were not included in the revised panel were permitted to continue as Deputy Tahsildars even though seven of them were juniors to the petitioners and nine of them were non-graduates. In the affidavit, the list of the seven juniors and the nine non-graduates had been given. It had therefore been stated that though in the original panel, 37 vacancies were identified, only 33 appointments were made. It had been stated that this reduction in the panel strength in the year 2017 was to permit the said 16 Deputy Tahsildars to continue in service.

8.The 1st petitioner had given a representation on 29.12.2020. He continued to give representations. Thereafter, the 1st petitioner claimed that a charge memo had been issued to him and he was also imposed with a punishment. He then filed W.P.No.22885 of 2021 and it was disposed of on 29.12.2020.

9.Finally, the 3rd respondent issued proceedings dated 28.02.2022 revising the panel from 2004 – 2018 following communal reservation for appointment to the post of Deputy Tahsildar. In this panel, for the year 2017, the panel strength



was increased from 13 to 21 instead of to 37. The petitioner again gave representations. The 2nd petitioner filed C.P.D.No.584 of 2022 before the Hon'ble Supreme Court and notice had been directed. A further direction was issued by the 2nd respondent to all the District Collectors by letter dated 25.03.2022 directing them to revise the seniority list of direct recruits. Accordingly, the seniority ranks were advanced for the petitioners, when compared to the original roster point seniority.

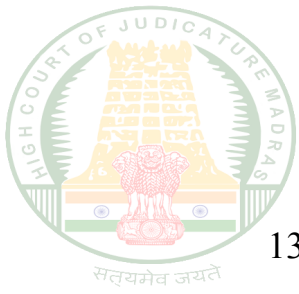
10. The 1st petitioner, however, gave a further appeal petition on 23.04.2022 complaining that non-graduates who had been removed in the earlier panel were then included in the revised panel. He also stated that juniors to the petitioners had been recruited by transfer as Deputy Tahsildar. The list containing names was also given in the affidavit. The 2nd respondent then issued yet another representation to the District Collector to prepare a revised panel on the basis of the estimated vacancy as on 16.08.2021. The District Collectors were issued with instructions to prepare the panel for the year 2016 – 2018 based on actual vacancies. The 3rd respondent then revised the panel from 2004 to 2018 and prepared the vacancies / panel strength, but only as 13 for the year 2017 instead of taking the correct strength as 37 and 3 appointments were made in the panel year 2017 out of the



actual strength of 37. It had been contended that, if the panel had been prepared for 37 members, then the petitioners would have been included in the panel 2017 since the last rank holder was Sl.No.191. The petitioners were in Sl.Nos.193, 195 and 196. The petitioners claimed that this reduction to 13 members instead of 37 was with specific intent to exclude the petitioners. It was also stated that even after the revised panels were prepared 6 non-graduate Deputy Tahsildar who ought to have been reverted were permitted to continue as Deputy Tahsildars.

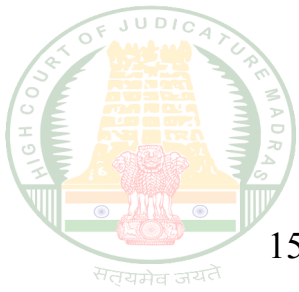
11.Subsequently, panels for the year 2019, 2020 and 2021 were prepared by the 3rd respondent by proceedings dated 13.09.2022. The 2nd and 3rd petitioners were included in the panel for the year 2021 and appointed as Deputy Tahsildars. The 1st petitioner was not considered since the charge and punishment were subsisting.

12.It had been contended that even after the revised panel dated 26.08.2022, the 5th and 6th respondents were permitted to continue and only after protest by the petitioners, they were reverted back.



13. The punishment of censure imposed on the 1st petitioner was set aside on 30.12.2022 by the 2nd respondent. The 1st petitioner then sought inclusion of his name in the appropriate panel. He gave a representation on 03.03.2023 to revise the panel from 2013 – 2021.

14. It had been further stated that an erroneous practice of carrying over to the next year panel the SC reserved vacancies that fall in the contingent vacancy as carried forward vacancy was pointed out by the 3rd respondent in his letter dated 19.10.2020. It had been stated that the 2nd respondent, however, refused to accept the proposal of the 3rd respondent. The 2nd respondent directed the 3rd respondent to include the name of the 1st petitioner in the panel for year 2021. The petitioner was therefore included and was appointed as Deputy Tahsildar and joined service on 20.03.2023. It is complained that the respondents had prepared the proceedings dated 26.08.2022 approving the revised panel for the year 2013 – 2018 without taking into consideration the correct vacancies. It was under those circumstances that the writ petition has been filed seeking interference with the said panel.



15.A counter affidavit had been filed by the 3rd respondent, wherein, it had been stated that the issue involved related to fixation of seniority among direct recruit Assistants and promotee Assistants. The panel was drawn in the year 2022 and published on 26.08.2022. It was contended that the 5th and 6th respondents were included in the said panel. For the panel 2016, the 7th respondent was also included. However, he was a non-graduate promotee Assistant. There was a requirement that only a graduate could be promoted to the post of Deputy Tahsildar. It was contended that the writ petitioners who were direct recruited Assistants had joined service in March 2012. The panel was drawn in the year 2015. They had completed only 3 years of services. They could not be therefore included in the year panel 2015. Thereafter, the panel was drawn in the year 2017, the total number of posts initially drawn was 37, taking into consideration the vacancies which arose on account of leave vacancy, training vacancy, suspension of employees for short duration, but, while determining the actual or permanent available vacancies, the number of vacancies were reduced to 13 from 37, because the temporary vacancies which might arise on account of leave, deputation or training and on account of suspension of employees for a short duration, were excluded. These temporary vacancies cannot be termed as actual vacancies or permanent vacancies. It was contended that the actual vacancy was only 13. It



was contended that the 5th respondent who was also a direct recruited Assistant, selected during the year 2012 was included in the panel for the year 2019, in view of the distinction between promotion and transfer, roster was applied. The 6th respondent was also included in the year 2021 below the writ petitioners. The 7th respondent who was a non-graduate, was however included in the year 2016. The 8th respondent was also included in the panel for the year 2016, because he was a graduate with requisite qualification. The 9th respondent was a non-graduate and his name was initially included in the panel for the year 2017, but later he was reverted as Assistant. It had been stated that the 1st petitioner was also visited with punishment and later when the punishment was raised and revoked, his name was included in the panel 2021 and he had been promoted as Deputy Tahsildar and is functioning as Deputy Tahsildar. It had thus been stated that there is no infirmity in the panels drawn by the respondents.

16.Mr.N.Subramanian, learned counsel for the petitioner fairly stated that the petitioners are not raising any grievance over the revision of seniority in accordance with the directions issued by the Hon'ble Supreme Court. The main grievance raised by the petitioners with respect to the panel drawn in the year 2017 was reducing the vacancy strength from 37 to 13. It had been contended that,



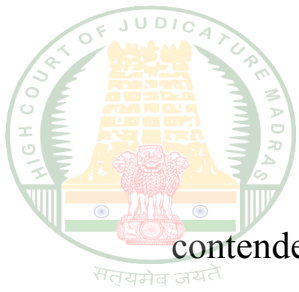
however, the respondents had also included two employees belonging to SC cadre and had carried forward that particular reservation under leave vacancy and contingency. The learned counsel stated that they had been carried forward even though they were juniors, and therefore, they stood to benefit and would become senior to the petitioners. The learned counsel therefore assailed the panel drawn by the respondents.

17. The learned counsel argued that the three writ petitioners should actually have been considered for recruitment by transfer to the post of Deputy Tahsildar in the panel 2017. It was contended by the learned counsel that there was an improper adoption of the vacancies in the panel. It was stated that there was a reduction in the panel strength which was drawn in the year 2017 and therefore, the petitioner got pushed to the panel drawn in the year 2021. With respect to the panel for the year 2017, the learned counsel stated that the estimated vacancies were 37 and only 32 appointments were made. It was further contended that 5 posts were sanctioned on 21.05.2018 and were included in the 2017 panel estimation. It was therefore contended that the actual vacancy in the year 2017 should have been 42 and therefore, atleast 37 should have been compulsorily taken as vacancy and if that is taken into consideration, the petitioners would have



been included in the panel for the year 2017 and would have got promotion. It was therefore argued by the learned counsel that reduction of the panel strength to 13 was discriminatory. It had also been further contended that four members of leave reserve and four members of unexpected vacancies had also been approved. It was therefore contended that in the year 2016, not even one single leave reserve or contingency vacancy arose. Even out of the 36 numbers, not even one single SC vacancy were filled up and therefore, it should not have been carried out. It was argued that the vacancies in the year 2017 was actually 37 and therefore, the panel for the year 2017 requires to be revised.

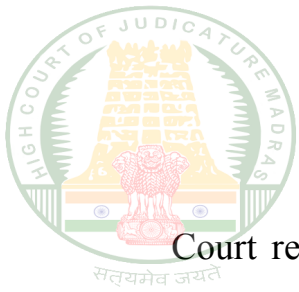
18. The learned counsel further pointed out that while carrying forward the unfilled vacancies with SC / ST had also caused undue prejudice to the petitioners. These were with respect to leave reserve vacancy and unexpected contingency vacancy and could be included only when such contingency occurs. It had been contended that only if vacancy reserved for SC / ST remains unfilled could such a vacancy be carried over, but not the unfilled contingency and leave reserve vacancies. It had therefore been stated that the leave reserve and contingency never happen and therefore, carrying over of those vacancies to the next year has again seriously prejudiced the petitioners. It had been further



contended by the learned counsel that by the erroneous carry over of SC / ST vacancies, the other assistants of the petitioners' batch and the promotee Assistants were unlawfully recruited by transfer as Deputy Tahsildars while the petitioners were discriminated against. The learned counsel pointed out that if the panel had been correctly drawn and the number of vacancies had not been reduced, the petitioners would have been promoted in the year 2017 itself.

19.The learned Additional Advocate General appearing for the 1st to 4th respondents, however, pointed out that none of the juniors of the petitioners had been promoted. He further pointed out that the SC / ST vacancies from the leave reserve and contingency vacancy have been lawfully carried over. The learned Additional Advocate General, further argued that so far as the recruitment to the post of Deputy Tahsildar is concerned, it was only a transfer from other service. It was stated that the recruitment to this post was not by way of promotion but by way of transfer.

20.In this connection, reference was made to Rule 2(13) and Rule 15(A) of the Tamil Nadu State and Subordinate Service Rules. The learned Additional Advocate General further placed reliance on the judgment of the Hon'ble Supreme



Court reported in (2009) 5 SCC 625, *N.Rathinaswami and others Vs. State of*

Tamil Nadu and others, wherein, it had been stated that the promotee assistant who was a graduate should be placed on par with the direct recruits. The learned Additional Advocate General also placed reliance on the judgment of the Hon'ble Supreme Court reported in (2019) 5 SCC 560, *A.Rajagopalan and others v. District Collector*, for the proposition that promotee graduate Assistants should be placed on par with direct recruits. The learned Additional Advocate General further pointed out that the 1st petitioner was suffering punishment at the time when the panel was drawn and therefore, he was not included in the panel. The 1st petitioner became eligible only in the year 2021 and thereafter, he had been recruited by transfer to the post of Deputy Tahsildar when the vacancy had arisen. It had therefore been contended that the writ petition should be dismissed.

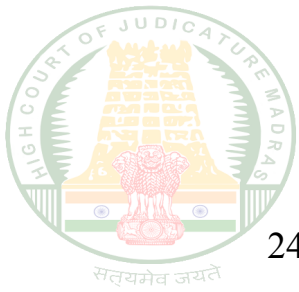
21.I have carefully considered the arguments advanced and perused the materials on record.

22.The writ petitioners had been recruited as Assistants through TNPSC in the Revenue Department in Salem District in the year 2012. They had joined duty in March 2012. Under normal circumstances, after completion of five years, they



could reasonably expect to be included in the panel for recruitment by transfer to the post of Deputy Tahsildar. But however, they could be included in the said panel, only if there were vacancies in the year 2017. If there were no vacancies, they would be drawn in the successive year or whenever there vacancies arose and they were eligible to be considered in the panel for recruitment by transfer to the post of Deputy Tahsildar. Merely because they had completed five years of service in the year 2017, they cannot claim a right to be recruited by transfer to the post of Deputy Tahsildar. There must be vacancies in the post of Deputy Tahsildar at the time when the panel is drawn. The panel is drawn on the 15th of September every year. While examining the vacancies, the respondents examined the actual vacancies and also provided for leave reserve and which would arise when any person in the Deputy Tahsildar cadre goes on leave. The respondents also provided for contingent circumstance. The provision for leave reserve and contingency is a normal rule in service jurisprudence.

23. The Tamil Nadu Public Service Commission (TNPSC) operates under the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which outlines the rules and regulations concerning contingency vacancies, reservation policies, and carry-forward rules in promotions.



24. Contingency vacancies arise owing to unexpected circumstances arising from events such as the non-joining of selected candidates, resignations, or deaths shortly after appointment.

25. Section 17(1) of the Act allows the appointing authority to make temporary appointments in public interest when an unforeseeable emergency arises, necessitating immediate filling of a vacancy. Such appointments can be made if there would be undue delay in following the standard recruitment procedures.

26. As per Section 17(3), individuals appointed temporarily under these circumstances should be replaced as soon as possible by a member of the service or an approved candidate qualified for the post under the standard rules.

27. The Act also addresses reservation policies and the carry-forward mechanism for unfilled reserved vacancies in promotions:

28. Section 27(f) specifies that if qualified and suitable candidates from Scheduled Castes (SC) or Scheduled Tribes (ST) are not available for selection by recruitment by transfer or promotion in the turns allotted to them, the vacancies



shall not lapse. Instead, these unfilled reserved vacancies are to be carried over for four consecutive recruitment years, including the year of recruitment and the subsequent three years.

29. The same section further stipulates that the combined total of normal reserved vacancies and carried forward vacancies should not exceed 50% of the total number of vacancies for a particular recruitment. If there are only two vacancies, one shall be treated as reserved. If there is only one vacancy, it shall be treated as unreserved. Any surplus beyond the 50% limit is to be carried forward to subsequent recruitments, ensuring that vacancies do not remain unfilled for more than three years.

30. The provisions aim to ensure that reserved category candidates are given adequate opportunities in promotions while maintaining a balance with unreserved vacancies.

31. The other reserves, namely, leave, training and deputation reserves are intended to serve as a substitute for regular duty posts in the event of service officers holding duty posts being temporarily away from their cadre on leave



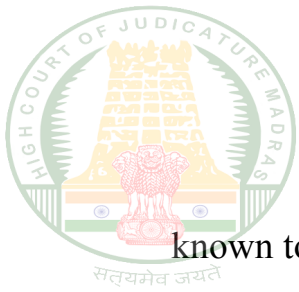
training, or deputation. Officers holding the posts under such reserves do perform regular functions of the posts against which they are posted as substitutes. In this sense, they are only temporary replacements for regular cadre officers who are currently away for one reason or the other and as such the reserve posts do not represent net additions to the cadre. The various types of reserves including probations reserves are usually created in the junior time scale.

32.It had been further provided in the Tamil Nadu State Subordinate Service Rules that, the list of approved candidates for appointment by promotion and by recruitment by transfer to all the categories of posts in the Tamil Nadu State and Subordinate Services shall be prepared annually against the estimated number of vacancies expected to arise during the course of a year. The estimate of vacancies shall be prepared taking into account the total number of permanent posts in a category the number of temporary posts in existence, the anticipated sanction of new posts in the next year, the recruitment post of leave reserves, the anticipated vacancies due to retirement and promotion in the course of the year and the number of candidates already in position in that category. The list of approved candidates, so prepared, shall be in force for a period of one year only and shall lapse at the end of the year. The candidates whose names were included



in the previous list, but were not appointed, shall be considered, if eligible for inclusion in the list of next year along with their seniors if any, whose names were not included in the previous list either because they were found not suitable or because they were not technically qualified when the previous list was drawn up.

33.It is thus seen that as a concept, providing for leave reserve and contingency is provided in the Act and the Rules. It shall be in force only for a period of one year and shall lapse at the end of the year. Those who have been included but not appointed shall be considered, if eligible for inclusion in the next year along with their seniors. The individual holding the post under such reserve perform regular functions of the post against which they have been posted as substitute. They are only temporary for replacement of regular cadre. It cannot be stated that, merely because in the previous years, the leave reserved for the contingency vacancy are not activated, there should not be any reservation or carry forward of such reservation to the next year. This is a concept enshrined in the Tamil Nadu Subordinate Service Rules. It cannot be predicted when an individual would go on leave and when any contingency would arise. If the petitioners have grievance over carrying over of such reserve posts, then the rules and the circular which provide for the same, should be challenged in manner

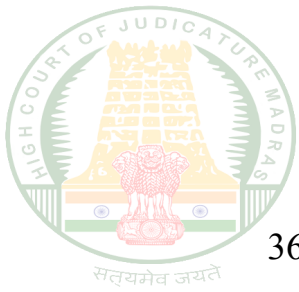


known to law.

WEB COPY

34.The petitioners claim that the number of vacancies had been reduced from 37 and they should have been included in the panel in the year 2017 itself. But as repeatedly pointed out the petitioners cannot claim as a matter of right to be promoted in the year 2017. They can be included only when the vacancies arise. The vacancies will be permanent and the vacancies could also be on leave reserve and on contingent circumstances. Those vacancies which are considered temporary on leave reserve or on contingencies have to be filled up only by the SC candidates. The petitioners, if they were to question that concept, will have to challenge the said Rules and seek that relief.

35.It is also seen from the records that the 2nd and 3rd petitioners had actually been considered for promotion when the vacancies had arisen. The 1st petitioner unfortunately had been visited with charge memo and subsequent punishment and therefore, he was considered immediately when he was eligible. It is admitted that the seniority panel had been fixed only in accordance with the guidelines of the Hon'ble Supreme Court.



36.In (2018) SCC OnLine SC 3867, *Government of Tamil Nadu and*

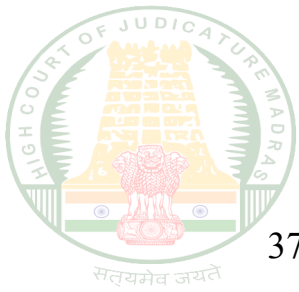
Another V. Registration Department SC/ST and M.B.C., Employees General

Welfare Sangam and Another, the Hon'ble Supreme Court had held as follows:

“8. Ordinarily and in the normal course, it would, as the High Court had held. But, the above conclusion cannot be read de hors a consideration of the relevant Rules, namely, Tamil Nadu State and Subordinate Services Rules (hereinafter referred to as “Rules”) which define the terms “promotion” and “transfer”, namely, Rule 2(13) and Rule 2(15-A) of the Rules. The said Rules 2(13) and 2(15-A) are set out below:

“2(13) “Promotion” means the appointment of a member of any category or grade of service or class of service to a higher category or grade of such service or class;

2(15-A) Transfer:— A member of a service is said to be appointed by transfer when the appointment is made from one category to another category in the same service carrying identical scale of pay.””



37.It is thus seen the order of this Court which considered such post as a promotional post had been set aside by the Hon'ble Supreme Court, holding that even for the post of Deputy Tahsildar, it is only a recruitment by transfer and when it is recruitment by transfer, the Tamil Nadu State Subordinate Service Rules would have to be considered.

38.In *(2009) 5 SCC 625, N.Rathinaswami and others Vs. State of Tamil Nadu and others*, the Hon'ble Supreme Court held as follows:

“7. The impugned G.O. No. 133, Revenue dated 7-2-1995 was passed amending Annexure III, Item (ii) of the Tamil Nadu Revenue Subordinate Service Rules and introducing two provisos by which directly recruited Assistants were given preferential treatment by making them eligible for promotion as Deputy Tahsildars on completion of five years of service as Assistants by placing them above the senior promotee Assistants.

8. Annexure III, Item (ii) in the Tamil Nadu Revenue Subordinate Service Rules, prior and after the amendment reads as under:



WEB COPY

Prior to amendment by G.O. dated 7.2.1995	After amendment by G.O. dated 7.2.1995
<i>Provided also that an Assistant appointed by direct recruitment in the office of the Board of Revenue shall be eligible for inclusion of his name in the approved list of Deputy Tahsildars for Madras city on competitive basis, after completion of a total service of five years, if he has passed all the prescribed tests and undergone training as Firka Revenue Inspector for two years successfully and is otherwise qualified.</i>	<i>Provided also that an Assistant appointed by direct recruitment in the office of the erstwhile Board of Revenue, who has completed a total service of five years, passed all the tests prescribed and undergone training as Firka Revenue Inspector for a period of two years successfully shall be eligible for inclusion of his name in the approved list of Deputy Tahsildars for Madras city above his seniors appointed other than by direct recruitment or for refixation of his seniority over such seniors, if his name has already been included in the list of Deputy Tahsildars. The consideration of his claim shall be against the first vacancy that follows the carried over vacancies.</i> <i>A similar proviso has also been added in respect of an Assistant appointed by direct recruitment in the District Revenue Unit.</i>

39.It is thus seen that among the candidates, who have to be promoted from the feeder post, if they were graduates they will have to be placed on par with direct recruits.

40.This concept was further upheld by the Hon'ble Supreme Court in

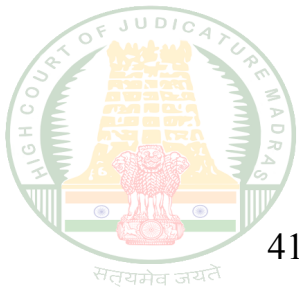


(2019) 5 SCC 560, A.Rajagopalan and others v. District Collector. The Hon'ble

WEB COPY

Supreme Court had held as follows:

“17. As discussed earlier, as per G.Os. Nos. 884 and 133 dated 12-8-1992 and 7-2-1995 respectively and the amendment to Rule 5(g) of the TNRSS Rules had been upheld by the Supreme Court, of course, by reading down into the Rule that the Promotee graduate Assistants are to be treated on a par with Direct recruit Assistants. The classification of the “Promotee graduate Assistants” on a par with Direct recruit Assistants is only by virtue of the order of the Supreme Court dated 8-4-2009 [M. Rathinaswami v. State of T.N., (2009) 5 SCC 625 : (2009) 2 SCC (L&S) 101] . As rightly pointed out by Mr Shekhar Naphade, learned Senior Counsel appearing for the appellants and Mr V. Giri, learned Senior Counsel appearing for the State, the implementation of the order with effect from 4-12-1978 would create unprecedented confusion and upset the settled position of Direct recruit Assistants who had been promoted from 1995 till 2009 by virtue of the amended Rule conferring preferential treatment on the Direct recruit Assistants. If such a course of action is permitted, it would seriously prejudice the rights of those of the Direct recruit Assistants who have been promoted from 1995.”

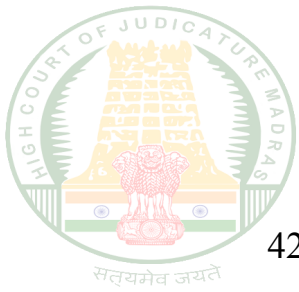


41. In the judgment of the Division Bench of this Court, reported in **2019 6**

CTC 750, K.Raja and others V. Additional Chief Secretary to Government and others and etc. batch, while dealing with backlog vacancy, the Division Bench had stated as follows:

“29. Backlog Vacancies:-

29.1 Backlog vacancies are meant to be filled up for a particular year but not actually done. If they are not filled up, they can be carried forward along with the vacancies arising in the next year. Merely because, selection has been made for the subsequent year by way of a common process, it cannot be stated that a reserved candidate who comes under the backlog vacancy would also be a part of it. The vacancies should have been filled up for the earlier year. It is only for convenience sake they were filled up subsequently. We may note that by not filling up of the vacancies in the reserved category, the principal object of giving adequate representation would get lost. Thus, a candidate selected in the subsequent year vacancy cannot be made to contend that the candidates selected for the previous year though subsequently, by way of filling up the backlog vacancy are to be treated on par.”



42.It had been further held as follows:

WEB COPY

“37.15 We are dealing with the issue which has arisen because of the filling up of the backlog vacancies. Backlog vacancies were filled up along with ensuing year by carrying them forward. The backlog vacancies are thus meant for the previous year. Therefore, there is nothing wrong in the private respondents being placed above the petitioners. After all, we are concerned with the social justice to be rendered leading to equality. If to say there is over representation, now, it implies, there was under representation earlier. The private respondents could have been selected in the earlier year. Had it been done, the petitioners would not have got any grievance. Just because, the selection process happens to be one and the same, the petitioners cannot claim parity with the private respondents. Accordingly, W.P. Nos. 11150, 11151 and 22136 of 2018 deserve to be dismissed.”

43.The petitioners having been recruited by transfer at the time when the vacancies actually arose, cannot now raise grievances that they should have been included in the earlier panel and that the vacancies were deliberately reduced in the panel 2017 only to exclude the petitioners and that the filing of carry forward of leave reserve and contingency vacancies by SC candidates was wrong.

44.These objections by the petitioners do not have any substance and I am



not inclined to grant any credence to the same. The dictum laid down is clear. The rule provides for leave reserve vacancies and contingency vacancies. They are recognized in service law. They are also filled up as a temporary measure and there cannot be an argument put up that they should not be carried over. The leave reserve and contingency vacancies are carried over when forming the panel for recruitment by transfer to any post. It must be kept mind that the post of Deputy Tahsildar is not a promotional post, but a post to be filled by recruitment by transfer.

45. In view of the above reasonings, I hold that the Writ Petition has to be dismissed and accordingly the Writ Petition stands dismissed. No costs.

17.03.2025

Index: Yes/No

Speaking order / Non-speaking order

Neutral citation : Yes / No

smv



To
WEB COPY

- 1.The Principal Secretary to Government,
Revenue and Disaster Management Department,
Service wing, Services 3(2) Section,
Secretariat, Chennai – 600 009.
- 2.The Additional Chief Secretary /
Commissioner of Revenue Administration,
Chepauk, Chennai – 600 005.
- 3.The District Collector,
Salem District, Salem – 636 001.
- 4.The District Revenue Officer,
Salem District, Salem – 636 001.



WEB COPY



31

C.V.KARTHIKEYAN,J.

smv

Pre-delivery order made in
W.P.No.766 of 2024

17.03.2025