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W.A.Nos. 122 of 2025 of etc., b



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.SURENDER

W.A.Nos. 122, 114, 194, 189, 200 & 207 of 2025, 3219 of 2024

and

**C.M.P.Nos. 843, 652, 656, 1549, 1550, 1303, 1304, 1359, 1361, 1417 &
1419 of 2025 & 24900 of 2024**

W.A.Nos. 122, 114, 194, 189, 200 & 207 of 2025

The District Collector,
Chengalpattu District,
Chengalpattu 603 001. ...Appellant in W.A.Nos. 122, 114 & 194 of 2025

The District Collector,
Kanchipuram District,
Kanchipuram 631 501. ... Appellant in W.A.Nos. 189, 200 & 207 of 2025

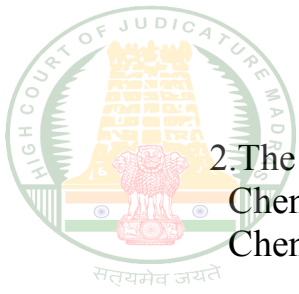
Vs.

1.G.Kathiresan
... 1st respondent in W.A.No.122, 189 of 2025

1. K.Sivakumar ... 1st respondent in W.A.Nos.114 & 189, 200 of
2025

1.S.Thamizharasan ... 1st respondent in W.A.No.194 & 207 of 2025

2.The District Collector,
Kanchipuram District,
Kanchipuram 631 501.
... 2nd respondent in W.A.No.122, 114 & 194 of 2025



2. The District Collector,
Chengalpattu District,
Chengalpattu 603 001.

... 2nd respondent in W.A.Nos. 189, 200 & 207 of 2025

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3. V. Udhayakumar

4. C. Balakrishnan

5. A. Periyannayagamary

6. A. Nagapriya

7. Kanimozhi

8. Vijayalakshmi

... Respondents 3 to 8 in all appeals

9. M. Hema

... 9th Respondent in W.A.No.122 of 2025

(R9 impleaded as party respondent vide Court order
dt. 02.07.2025 in CMP/6556/2025 in WA/122/2025)

Common Prayer: Writ Appeals filed under Clause 15 of Letters Patent,
against the order dated 30.07.2024 made in W.P.No. 2425, 2426, 2431, 2425
& 2431 of 2024.

For Appellants	: Mr.R.Neelakandan
in all appeals	Additional Advocate General assisted by Mr.John J.Raja Singh Additional Government Pleader
For Respondents	: Mr.S.Vijayakumar, Senior Counsel
in all appeals	for Mr.S.Ayyathurai for r1 in WA/122/2025 & for Mr.M.Elumalai for R1 in other appeals

W.A.No.3219 of 2024



1.V.Udhayakumar

2.Balakrishnan

... Appellants

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Vs.

1.G.Kathiresan

2.The District Collector,
Kanchipuram District,
Kanchipuram - 631 501.

3.The District Collector,
Chengalpattu District,
Chengalpattu - 603 001.

4.A.Periyanayagamary

5.A.Nagapriya

6.Kanimozhi

7.Vijayalakshmi

... Respondents

Common Prayer: Writ Appeal filed under Clause 15 of Letters Patent,
against the order dated 30.07.2024 made in W.P.No. 2425 of 2024.

For Appellants : Mr.L.Chandrakumar

For Respondents : Mr.S.Vijayakumar, Senior Counsel

For Mr.M.Elumalai for R1

Mr.R.Neelakandan

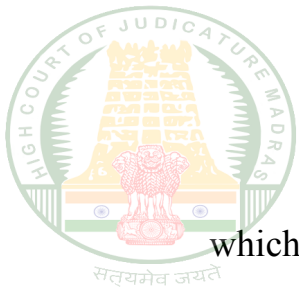
Additional Advocate General assisted by

Mr.John J.Raja Singh

Additional Govt. Pleader for R2 & R3

COMMON JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)



The issue of *inter se* seniority between direct recruits and promotees which had occupied the time of the Courts for over a five decades arises again in these appeals. We must at the outset point out, these issues arise because of the inefficiency, negligence and ineptness of the people, who are at the helm of the affairs in the Districts, particularly, the District Collectors.

2. In the cases on hand, the respondents 1 to 7, who were appointed as Junior Assistants during July, 2014 have completed their probation in July, 2016. Based on that, their names were included in what is termed as a temporary panel for the year 2017 – 2018 vide the proceedings of the District Collector, Kanchipuram dated 27.01.2017. Pursuant to the inclusion in the panel, they were promoted as Assistants temporarily on 13.02.2017. A batch of direct recruits were recruited as Assistants joined as Assistants on 16.02.2017. These directly recruited Assistants, who joined the service on 16.02.2017 raised an issue regarding their seniority and claimed that since the promotees who were promoted on 13.02.2017 had completed their probation only during July, 2016 they ought not to have been included in the approved panel for the years 2016 – 2017 therefore, their promotions on 13.02.2017 were irregular.

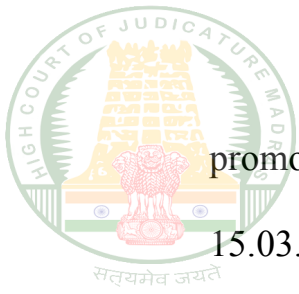


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3. The sum and substance of the prayer was to place them over and above the promotees in the seniority list. The correspondence went on for sometime and finally, the District Collector, Kanchipuram passed the impugned proceedings on 12.10.2023 & 30.11.2023, redrawing the seniority list taking cover under the order of the Hon'ble Supreme Court dated 18.04.2023 in Contempt Petition Diary No.6415 of 2021 wherein, the Hon'ble Supreme Court had directed revision of seniority based on the merit, that is to say, the marks obtained in the qualifying examination conducted by the TNPSC, re-arranged the seniority in and by which the promotees who were promoted on 13.02.2017 were placed below the direct recruits, who were appointed on 16.02.2017. Aggrieved, the promotees had filed the writ petitions.

4. It was the contention of the promotees that they having been promoted ahead of the direct recruits, they should be given seniority since direct recruits acquired a right only from the date, on which, they are borne into the service. This claim was resisted by the State as well as the promotees contending that whatever panel that was formed between 2012 – 2013 and 2021 – 2022 were all only temporary panels and they do not confer any right on the promotees. It was the further contention that these

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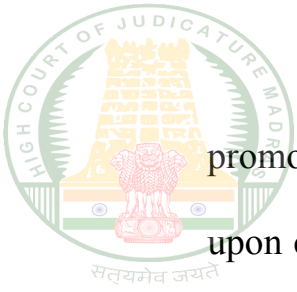
promotees having completed their probation after the crucial date namely, 15.03.2016, they would not be entitled to be included in the approved list for promotion for the years 2016 – 2017. Therefore, they could not be promoted to the higher post before 15.03.2017. A deeming fiction was created to contend that these promotees should be deemed to have been promoted after 15.03.2017 namely, the crucial date for preparation of the list for the year 2017 – 2018.

5. The writ Court rejected the contention of the promotees and the Government and concluded that the impugned proceedings were bad. It directed restoration of seniority of the promotees. In arriving at the conclusion, the writ Court had framed two questions for consideration. They are as follows:-

“i) Whether the petitioner's promotion to the post of Assistants even before completion of their probationary period in the post of Junior Assistant is valid ?

ii) Whether the petitioners can be compared with respondents 3 to 8 on merit basis for revision of seniority list as directed by the Hon'ble Supreme Court of India ?”

6. On the first question, the writ Court held that the promotees were



promoted only after completion of the probation. The writ Court also relied upon certain clarifications issued by the Director of Rural Development and Panchayatraj dated 01.06.2018.

7. On the second question namely, the revision of seniority based on the judgment of the Hon'ble Supreme Court, the writ Court held that the merit based seniority can be revised and it has to be revised at the entry level. The said judgment of the Hon'ble Supreme Court directing revision of seniority based on the merit at the entry level cannot be used for disturbing the seniority at the promotional post, that too, between a promotee and a direct recruit. On the said conclusions, the learned single Judge allowed the writ petitions, quashed the orders dated 12.10.2023 & 13.11.2023 and directed restoration of the seniority of the promotees in accordance with the date of their actual promotion. Aggrieved, both the Direct recruits as well as the State have come on appeal.

8. As far as the State appeals are concerned, we do not see any grievance for the State. We wonder as to why the State is on appeal against the issue relating to inter se seniority, that too, when the issue was created by the inaction and inefficiency of its own Administrators. The District

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Collector, Kanchipuram has filed an affidavit in response to a query as to when the services of these temporarily promoted promotees were regularized. In the said affidavit, it is claimed that the District Administration has prepared only temporary panel for Assistants for the period from 2015 to 2022, in view of the pendency of writ petition in W.P.No. 19360 of 2015.

9. In fact, the interim order passed by the Court in the said case has also been extracted by the District Collector where, this Court has dismissed the injunction petition and made it clear that promotions will be subject to the result of the writ petition. This does not, in our opinion, arm a District Collector to shirk his or her responsibility and keep things in abeyance for a very long period. Ultimately, the said writ petition was dismissed for non-prosecution on 03.04.2019. In our considered opinion, the orders of the Hon'ble Supreme Court dated 18.04.2023 have been used only to unsettle a settled seniority. We therefore, have no hesitation in dismissing the appeals filed by the Government.

10. Coming to the appeal filed by the direct recruits, Mr.L.Chandrakumar, learned counsel appearing for the direct recruits would

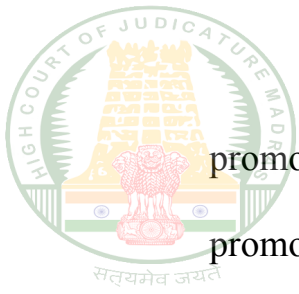


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vehemently contend that a temporary panel or a temporary promotion will not vest any right in the promotees. According to him, in view of Rule 13(A) of the Tamil Nadu Ministerial Service Rules, no candidate whose name was not included in the list of approved candidates can be promoted. He would point out that the promotees, admittedly, completed their probation only in the month of July, 2016 and therefore, they ought not to have been included in the list of approved candidates eligible for promotion for the panel year 2016 – 2017. If at all they could be included in the panel year 2017 – 2018, which list should have been prepared only on 15.03.2017 and therefore, promotions effected before that are of no avail and hence, the direct recruits will steal a march over the promotees. He would also seek the aid of Section 7(1) r/w. Schedule – 11 of the Tamil Nadu Government Servants (Condition of Service) Act, 2016 to contend that unless there is an approved panel, the promotions will not confer any right on the promotees.

11. Contending contra, Mr.S.Vijayakumar, learned Senior Counsel appearing for the promotees would submit that temporary panel was drawn on 27.01.2017 and promotions were effected on 13.02.2017. As far as the post of Assistant is concerned, there is a ratio of 75:25 between promotees and direct recruits. It is not the case of the direct recruits that these

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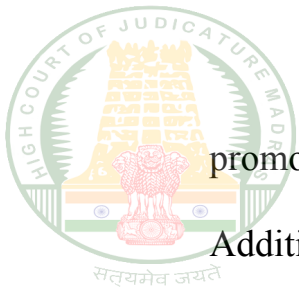
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promotions were granted over and above the 75% quota available for promotion. All these promotees were appointed only within the 75% quota available for promotees. Admittedly, the temporary panel was drawn on 27.01.2017 and promotions were effected on 13.02.2017 to the substantive posts, which were lying vacant. This drawal of temporary panel itself is improper. The claim of the District Collector that because of the pendency of a writ petition this temporary panel was drawn appeals least to us.

12. Mr.N.Subramanian, who filed an application for impleading would draw our attention to the Explanation - III to Section 7(1) which reads as follows:-

“Explanation III. - No temporary list shall be prepared in respect of the posts for which the consultation of the Commission is not required and the list of names prepared, if any, shall be a regular one.”

13. According to Mr.N.Subramanian, in view of the specific provision, the so called temporary list that is prepared on 27.01.2017 should be treated as a regular list. If that be so, then the promotions should also be treated as regular promotions. When we wanted to know when were these temporary



promotions given in the year 2017 regularized, Mr.Neelakandan, learned

Additional Advocate General would fairly submit that there were no

regularization. This picturises the working (non-working) of the District

Administration. The mandate of the Act, which was introduced with an

avowed object of regulating and minimizing litigations has been thrown to

the winds by the people in-charge of the District Administration. The

service disputes between Government employees at the least occupied 15%

to 20% of the time of this Court. This can be avoided, if only the people in-

charge of the District Administration act with some sense of responsibility.

These cases on hand are classic examples of waste of judicial time because

of the inefficiency of the District Administration.

14. Adverting to the merits of the matter, we find that the alleged basis namely, order of the Hon'ble Supreme Court dated 18.04.2023 does not exist at all. The Hon'ble Supreme Court only required that the seniority in the entry level should be revised based on the marks obtained by the candidates in the examination instead of the practice that was hitherto applied namely, going by the roaster. If the seniority at the entry level is revised, it may have an effect on the promoted post also but, that effect will be restricted only among the promotees. It cannot be used to disturb their seniority so as to put



a direct recruit, who entered the service admittedly after the promotees, to steal a march over the promotees.

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15. In view of the Explanation-III to Section 7(1), the list that has been prepared on 27.01.2017 has to be treated as permanent list and the promotions granted on 13.02.2017 should be treated as regular. The reason for making the temporary promotion is the pendency of a writ petition. Therefore, unless it is shown that the promotions were made over and above the quota, the promotees will have to be conferred the benefit of promotions from the date of their promotion. We therefore, do not find any merit in these appeals. These appeals therefore, fail and they are accordingly, **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed. The Government will implement the orders of the writ Court within a period of eight weeks from the date of receipt of a copy of this order.

(R.S.M., J.) (K.S., J.)
02.07.2025

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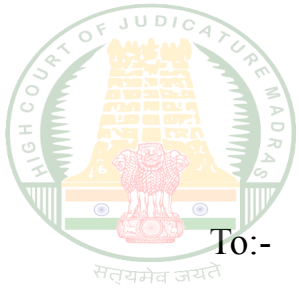
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Index: No

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To:-

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1. The District Collector,
Chengalpattu District,
Chengalpattu 603 001.
2. The District Collector,
Kanchipuram District,
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