



W.A(MD)Nos.451 and 452 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 09.07.2025

Pronounced On : 21.07.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A(MD)Nos.451 and 452 of 2020
and
C.M.P.(MD) No.3208 and 3209 of 2020**

W.A.(MD)No.451 of 2020

- 1 . The Director of School Education,
Directorate of School Education Department,
DPI Campus College Road,
Chennai – 600 006.
 2. The Joint Director of School Education,
(Personnel Division),
Directorate of School Education,
DPI Campus College Road,
Chennai – 600 006.
 3. The Chief Educational Officer
Tirunelveli.
 4. The District Educational Officer,
Tirunelveli District.
 5. The District Educational Officer,
Sankarankovil,
Tirunelveli District.
- ... Appellants / Respondents



W.A(MD)Nos.451 and 452 of 2020

Vs.

1. A.Mala

W/o.Kumarasamy,
No.62/51, Reddiyar Street,
Panakulam, Nanguneri Taluk,
Tirunelveli District.

... 1st Respondent / Petitioner

2. K.Mohammed Bhurai,
Personal Assistant,
District Educational Office,
Sankarankoil,
Tirunelveli District.

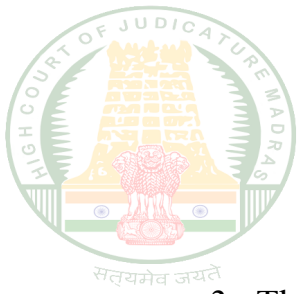
... 2nd Respondent / 6th Respondent

PRAYER in W.A.(MD)No.451 of 2020: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 14.10.2019 passed by the learned Single Judge in W.P.(MD).No.1422 of 2019 and allow the Writ Appeal and thus render justice.

PRAYER in C.M.P.(MD)No.3208 of 2020: To stay the operation of the order made in W.P.(MD)No.1422 of 2019 dated 14.10.2019 pending disposal of the above writ appeal and thus render justice.

W.A.(MD)No.452 of 2020

- 1 . The Director of School Education,
Directorate of School Education Department,
D.P.I Campus, College Road,
Chennai – 600 006.
2. The Joint Director of School Education,
(Personnel Division),
Directorate of School Education,
D.P.I Campus, College Road,
Chennai – 600 006.



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3. The Chief Educational Officer
Tirunelveli.

4. The District Educational Officer,
Tirunelveli District.

5. The District Educational Officer,
Sankarankovil,
Tirunelveli District.

6. The Block Educational Officer,
Palaymkottai (Rural),
Tirunelveli District.

... Appellants / Respondents

Vs.

1. A.Mala
W/o.Kumarasamy,
No.62/51, Reddiyar Street,
Panakulam, Nanguneri Taluk,
Tirunelveli District.

... 1st Respondent / Petitioner

2. K.Mohammed Bhurai,
Superintendent,
Block Educational Office,
Palayamkottai (Rural),
Tirunelveli District.

... 2nd Respondent / 7th Respondent

PRAYER in W.A.(MD)No.452 of 2020: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 14.10.2019 passed by the learned Single Judge in W.P.(MD).No.22238 of 2018 and allow the Writ Appeal and thus render justice.



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PRAYER in C.M.P.(MD)No.3209 of 2020: To stay the operation of the order made in W.P.(MD)No.22238 of 2018 dated 14.10.2019 pending disposal of the above writ appeal and thus render justice.

(In both Writ Appeals)

For Appellants : Mr.J.Ashok
Additional Government Pleader

For Respondents : Mr.G.Prabhu Rajadurai
for Mr.J.Anandakumar for R1

: No appearance for R2

COMMON JUDGMENT

[Judgment of the Court was made by DR.A.D.MARIA CLETE J.]

Heard.

2. These intra-court writ appeals are filed by the State against the common order dated 14.10.2019 passed by the learned Single Judge in W.P.(MD) Nos. 22238 of 2018 and 1422 of 2019, whereby the learned Judge allowed the writ petitions filed by the first respondent herein and directed the appellants to fix her seniority as per the proceedings dated 29.11.2010 and to grant her consequential promotion to the post of



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Personal Assistant to the District Educational Officer (P.A. to D.E.O.).

The writ petitions respectively challenged two proceedings - one dated 23.10.2018, whereby her junior, Mr. K. Mohammed Buhari, the second respondent in the appeals was included in the promotion panel for the said post by revising the settled seniority without notice, and the other dated 08.01.2019, whereby the writ petitioner's representation against such revision was rejected. Since both writ petitions arose out of the same service dispute concerning seniority and promotional prospects, and as they were disposed of by a common writ order, these writ appeals are being disposed of by this common judgment.

3. The facts are as follows:

The writ petitioner was appointed as Junior Assistant on compassionate grounds on 12.11.1986 and her service was regularised with effect from that date vide G.O.(2D.) No. 46, Education, Science and Technology (M1) Department, dated 11.03.1994. She was promoted as Assistant with effect from 20.10.1995 and further as Upgraded Desk Superintendent on 15.10.2009.

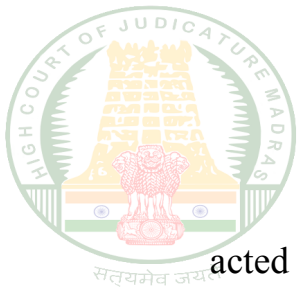


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4. In the proceedings dated 29.11.2010, the writ petitioner was placed at Serial No. 188(a) in the seniority list for the post of Desk Superintendent. The 2nd respondent herein, a junior who entered service on 15.12.1986, was placed at Serial No.189. Both were promoted as Desk Superintendent on the same date.

5. However, by subsequent proceedings dated 18.10.2011, 2nd respondent herein's promotion as Assistant was retrospectively regularized from 15.04.1994 based on his earlier acquisition of departmental qualification in 1989, and specifically, on the ground of parity with his junior Malliga, who had already been extended the benefit of earlier regularisation from that date. This revision had the effect of placing him at Serial No. 108(a), ahead of the writ petitioner. He was thereafter promoted as P.A. to D.E.O. on 31.10.2018, while the writ petitioner was denied such promotion.

6. The writ petitioner challenged the proceedings dated 23.10.2018 and 08.01.2019, contending that her seniority, as finalized in 2010 and



acted upon, could not have been unsettled unilaterally without notice.

The learned Single Judge accepted her contention, set aside the impugned order, and directed the department to grant her promotion as P.A. to D.E.O. based on the 2010 seniority and eligibility.

7. The State, in appeal, contends that the writ petitioner acquired the qualifying examination only in November 1994, whereas 2nd respondent herein was qualified as early as 1989. Consequently, he was entitled to regularisation from 1994 and his placement in the revised seniority list was valid. It is also contended that Writ petitioner was not eligible for inclusion in the promotion panel dated 15.03.2018, as she was promoted as Desk Superintendent only on 15.10.2009, whereas the cut-off date was 13.05.2008. Further, the writ petition suffers from non-joinder of 80 persons who stood above her in the seniority list.

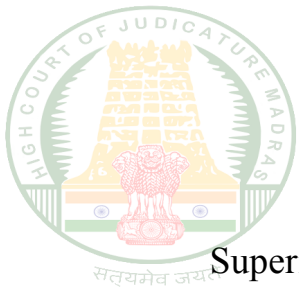
8. Here and Now, the Writ petitioner was appointed on 12.11.1986, whereas the 2nd respondent herein was appointed subsequently on 15.12.1986. Although the 2nd respondent herein passed the departmental test earlier than the petitioner, both the writ petitioner and the 2nd



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respondent herein were promoted to the post of Desk Superintendent on 15.10.2009, and their relative seniority was formalised by proceedings dated 29.11.2010, in which the writ petitioner was placed above the 7th respondent. However, this seniority list was subsequently disturbed by the proceedings dated 09.12.2011, wherein the 2nd Appellant revised the earlier list and placed the 2nd respondent herein above the writ petitioner solely on the ground that he had acquired the requisite departmental qualification earlier. Crucially, this revision was made unilaterally, without affording any notice or opportunity of hearing to the Writ petitioner.

9. The core issue for determination is whether this subsequent revision of seniority in 2011, issued behind the back of the writ petitioner, could operate to unsettle her seniority already determined in 2010 and acted upon through promotion orders. There is no dispute that in the proceedings dated 29.11.2010, Writ Petitioner was ranked above 2nd respondent herein. That list was drawn up after duly verifying service particulars and qualification details and had been acted upon. Both the Writ petitioner and 2nd respondent herein were promoted as Desk

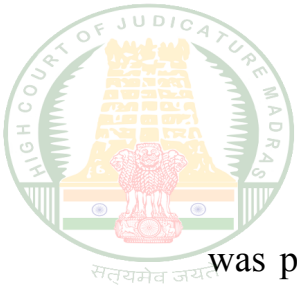


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Superintendents on 15.10.2009, evidently based on that list. The Department accepted the position for nearly a year.

10. It is well settled that when a promotional opportunity arises and both employees have qualified by passing the departmental test, seniority for promotion is ordinarily determined by the date of initial appointment to the category. Passing the departmental test is a precondition for eligibility but does not, by itself, entitle a candidate to out-rank another appointed earlier. In other words, once the departmental test is passed, it is immaterial whether it was cleared earlier or later, as long as it was cleared prior to the promotion. It is only where a candidate fails to pass the test and is denied promotion on that account that the resulting loss of seniority becomes justified. In this case, both individuals were eligible and promoted on the same date, and the Writ petitioner was rightly placed above her junior in the 2010 list. The subsequent revision without notice was clearly violative of established principles.

11. The proceedings dated 09.12.2011, by which 2nd respondent herein's promotion was antedated and he was placed above the petitioner,



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was passed unilaterally. This has resulted in her displacement from her settled position in the promotional hierarchy, in violation of the principles of natural justice. Seniority once settled and acted upon cannot be altered to the prejudice of an employee without affording her an opportunity of hearing. Administrative authorities cannot revise seniority positions to the detriment of an affected employee behind their back, particularly when such seniority has been relied upon for consequential promotions.

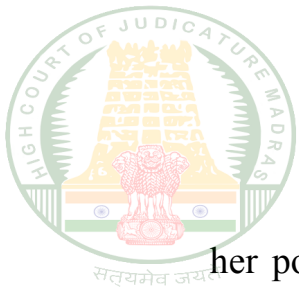
12. Further, the plea that Writ Petitioner was not eligible for inclusion in the 2018 panel due to the cut-off date of 13.05.2008 cannot be sustained, when the same panel included 2nd respondent herein, whose promotion as Desk Superintendent was also on 15.10.2009. The selective application of the cut-off date is arbitrary and discriminatory. If 2nd respondent herein was considered eligible despite being promoted after the stipulated date, Writ Petitioner who stood senior to him under the original list, could not have been excluded on that ground alone.



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13. As regards the plea of non-joinder, it is noted that the petitioner only seeks to assert her claim against one junior who has superseded her. She is not seeking reversion of the 80 others above her in the seniority list. Thus, the objection raised by the appellants is hypertechnical and cannot defeat a just and narrowly focused cause. The promotion accorded to 2nd respondent herein was at the expense of the petitioner's rightful claim, and hence, the issue is personal and limited, not collective.

14. While it is true that 2nd respondent herein had passed the departmental examination earlier and was eligible for earlier promotion as Assistant, and that his promotion was retrospectively regularised from 15.04.1994 on the ground of being similarly situated to his junior Malliga, the Writ petitioner's grievance is not rooted in eligibility alone but in the procedural and legal impropriety of displacing her from a finalised seniority list that had already been acted upon by promoting both individuals on 15.10.2009. Once the seniority list dated 29.11.2010 was drawn up and implemented, any subsequent modification affecting



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her position ought to have been preceded by notice and opportunity to make representations. The failure to do so offends the principles of natural justice and administrative fairness.

15. Moreover, if retrospective regularisation was permitted to benefit 2nd respondent herein based on his junior's case, the Department could not have summarily denied similar treatment or consideration to the petitioner, especially when her seniority had been fixed and relied upon. The learned Single Judge was, therefore, justified in setting aside the impugned order and directing restoration of the petitioner's seniority and a fresh consideration for promotion.

16. The learned Single Judge rightly interfered with the impugned proceedings which violated the petitioner's substantive right to seniority and promotion based on an acted-upon list. The subsequent revision was both procedurally flawed and substantively unjust. We see no reason to interfere with the well-reasoned judgment under appeal.



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17. In fine, the writ appeals are dismissed. The common order dated 14.10.2019 passed in W.P.(MD) Nos. 22238 of 2018 and 1422 of 2019 is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.] [A.D.M.C., J.]

21.07.2025

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
LS

To

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W/o.Kumarasamy,
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Panakulam, Nanguneri Taluk,
Tirunelveli District.
2. K.Mohammed Bhurai,
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Pre-delivery Judgments made in
W.A(MD)Nos.451 and 452 of 2020
and
C.M.P.(MD) No.3208 and 3209 of 2020

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