



W.P(MD) No.7494 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 18.12.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

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&

M.P.(MD)Nos.5672 & 5674 of 2021

P.Navamani

... Petitioner

Vs.

The Sessions Judge,
Fast Track Mahila Court,
Srivilliputhur,
Virudhunagar District.

... Respondent

PRAYER: Writ Petition filed Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent dated 03.09.2020 and the consequent order in Order No.1, dated 23.09.2020 and quash the same and direct the respondent to refund the amount already recovered from the petitioner's salary from September 2020 onwards.



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For Petitioner : Mr.R.V.Rajkumar

For Respondent : Mr.D.Venkatesh

ORDER

(Order of the Court was made by G.R.SWAMINATHAN, J.)

Heard both sides.

2.The writ petitioner is a court staff. She challenges the impugned order passed by the respondent refixing her pay and directing recovery.

3.The writ petitioner joined the Tamil Nadu Judicial Ministerial Service as Senior Bailiff on 31.05.1993. She was appointed as reader on 01.01.1997. She was then posted as Junior Assistant on 30.06.1998. The petitioner was then promoted as Sub-Court Sheristadar on 29.05.2017. On 09.04.2018, she became Grade I Bench Clerk. While so, the audit wing of the High Court raised an objection that since the post of senior bailiff, reader and junior assistant were in the same scale of pay, posting the writ petitioner as reader and then as Junior Assistant should not have been construed as promotion and therefore, increment should not have



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been awarded. It was in that view of the matter, re-fixation and recovery was ordered. On the same lines, the audit wing took the view that posting the writ petitioner as Sheristadar and then as Grade I Bench Clerk should also not have been treated as promotion.

4.The only question that calls for consideration is whether the appointment of the petitioner from the post of Senior Bailiff to the post of Reader and her appointment as Junior Assistant from the post of Reader can be called as promotion.

5.It is not in dispute that the post of Senior Bailiff, Reader and Junior Assistant were and are in the same scale of pay and therefore, the stand of the employer is that posting the petitioner as Reader and then as Junior Assistant should not have been treated as acts of promotion. We have to see whether this stand of the employer is sustainable.

6. Our attention is drawn to Rule 2(12) of the Tamil Nadu Judicial Ministerial Service Rules which defines promotion. It reads as follows:-



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“Promotion:-

Promotion means the appointment of a member of any class, category or grade of the service to a higher class, category or grade of the service.”

7. Rule 5 states that the Service shall consist of five Classes and categories of officers. Class IV & V which deals with the Constitution of ministerial Courts reads as follows:-

CLASS-IV (MOFUSSIL COURTS)

1. Sarishtadars of District Courts and
Chief Judicial Magistrate's Courts.

2. Sarishtadars of Subordinate Judge's Courts.

Head Clerks of the District Courts, Central Nazirs.

3. Head Clerks of the Chief Judicial Magistrate's Courts

Head Clerks of the Subordinate Judge's Courts

Superintendents of Labour Courts,

Madurai and Coimbatore (inserted SROB 81/98)

Head Clerks of the Sub Divisional Judicial Magistrates Courts

Head Clerks of the District Munsif Courts

Record Keepers of the District Courts



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Senior Superintendent of Copyists

Deputy Nazirs

Translators.

4. Record Keeper, Subordinate Judge's Court.

Ootacamund

First Clerk, District Court, Coimbatore

One Bench Clerk in each of the District Courts and Subordinate

Judge's Courts

Assistants

5. Junior Assistants

Assistant Nazirs

Junior Superintendent of Copyists

Typists and Steno-Typists

6. Assistant Superintendent of Copyists

Examiners

Readers

Class -V (Mofussil Courts)

Senior Bailiff

Copyists



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8.The petitioner was posted as reader on 01.01.1997. She was earlier holding the post of Senior Bailiff. The post of Senior Bailiff is in Class V, whereas the post of Reader is in Class IV. Promotion is advancement in rank or grade or both. As per the definition set out in Rule 2(12) of the Tamil Nadu Judicial Ministerial Rules, appointment to a higher class or category is promotion. Therefore, appointing the petitioner to the post of Reader which is in Class IV from the post of Senior Bailiff which is in Class 5 is a promotion. Increment was rightly granted on such promotion. Likewise, even though the post of Junior Assistant and the post of Reader are in Class IV, the post of Junior Assistant is in Category 5 whereas the post of Reader is in Category 6. Therefore, posting the writ petitioner to a higher category as Junior Assistant from the post of Reader is also an act of promotion.

9.The post of Head Clerk Sub-Court is in Category 3 of Class IV whereas the post of Sheristadar Sub-Court is in Category 2 of Class IV. Therefore, posting the writ petitioner as Sheristadar from the post of Head Clerk ie., from category 3 to category 2 was also an act of promotion.



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10.The audit wing as well as the employer failed to take into account the definition of the term “promotion” found in Rule 2(12) of the Tamil Nadu Judicial Ministerial Service Rules.

11.There is another way of looking at the issue. Fundamental Rule 22 B reads as follows:-

“F.R.22-B. Notwithstanding anything contained in these rules, where a Government servant holding a post in a substantive or officiating capacity, is promoted or appointed in a substantive or officiating capacity, **to another post carrying duties and responsibilities of greater importance** than those attached to the post held by him, his initial pay in the level of the higher post in the pay matrix shall be fixed by granting one increment in pay in the level of the lower post and he shall be placed at a cell equal to the pay so arrived at in the level of the higher post in the pay matrix of the higher post, and if no such cell is available in the level of the higher post to which he is promoted, the initial pay shall be fixed at next higher cell in the level of the higher post. However, if the pay so arrived at in the level in the lower post after granting one increment is lower than the minimum pay or the first cell in the level of the higher post, the initial pay shall be fixed at minimum pay or the first cell of the level of higher post....]”



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It is not in dispute that the post of Reader, Senior Bailiff and Junior Assistant are not endowed with the same duties and responsibilities. A person holding a post of reader has to discharge higher responsibility compared to that of a Senior Bailiff. A person holding the post of Junior Assistant has to discharge higher duties and responsibilities compared to the one holding the post of reader.

12.Thus, even in view of the Fundamental Rule 22 B, the award of one increment on grant of promotion to a post carrying higher duties and responsibilities was in order. This aspect was also not taken note of by the audit wing and the respondent herein. The impugned order is set aside on these twin grounds. The matter is remitted to the file of the respondent to pass an order afresh in the light of the directions and the law laid down in this order.

13.The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S., J.) (R.K.M., J.)
18.12.2025

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To

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