



W.P.(MD) No.7183 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
29.10.2025	12.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU
W.P.(MD) No.7183 of 2025

Thiruguna

... Petitioner

-vs-

- 1.The Government of Tamil Nadu,
Represented by its Additional Chief Secretary,
Highways & Minor Ports Department,
Secretariat, Fort St.George, Chennai – 9.
- 2.The District General,
Highways Dpartment,
Guindy, chennai – 25.
- 3.The Tamil Nadu Public Service Commissioner,
Represented by its Secretary,
Frazer Bridge Road,
Chennai – 600 003.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus or any other appropriate Writ or Order or direction, directing the respondents herein to revise the seniority in light of the order



W.P.(MD) No.7183 of 2025

WEB COPY

made in Contempt Petitions (Civil) Diary No(s).6415 in SLP(c) No.2886 of 2016 by considering the representation dated 31.07.2023 and its consequential remainders dated 14.03.2024 and 04.03.2025 within a stipulated time period in accordance with law and to pass such further orders.

For Petitioner : Mr.K.P.S.Palanivelrajan
Senior Counsel
for Mr.M.Ramesh

For Respondents : Mr.F.Deepak for RR1 & 2
Special Government Pleader

Mr.J.Anand Kumar for R3
Standing Counsel

ORDER

This Writ Petition had been filed to direct the respondents to revise the seniority in light of the order made in Contempt Petitions (Civil) Diary No(s). 6415 in SLP(c) No.2886 of 2016 by considering the representation dated 31.07.2023 and its consequential remainders.

2. Heard Mr.K.P.S.Palanivelrajan, learned Senior Counsel, appearing for Mr.M.Ramesh, learned counsel appearing for the petitioner, Mr.F.Deepak, learned Special Government Pleader appearing for the respondents 1 & 2 and Mr.J.Anand Kumar, learned Standing Counsel appearing for the third



W.P.(MD) No.7183 of 2025

WEB COPY

respondent.

3. Mr.K.P.S.Palanivelrajan, learned Senior Counsel, appearing for the petitioner would submit that the petitioner was recruited as an Assistant Engineer through the third respondent and had assumed his Office in the second respondent/ Department on 26.01.1998. A seniority list of Assistant Engineers was only published in the year 2004 as on 01.01.2004. The said seniority list had been drawn based on the communal roster fixed by the third respondent.

4. A Writ Petition in W.P.No.46868 of 2006 came to be filed challenging the selection list of Assistant Engineers, as the persons selected with lower marks have been placed above the persons who had secured higher marks and the said Writ Petition came to be allowed and the seniority was directed to be fixed only on the basis of the merit which has also been confirmed up till the Hon'ble Apex Court.

5. A Contempt Petition was also filed before the Hon'ble Apex Court, wherein, the Hon'ble Apex Court had specifically held that it was not inclined



W.P.(MD) No.7183 of 2025

WEB COPY

to reserve the seniority list which was finalised prior to 10.03.2003, wherein benefits were given to either of the parties as per the roster or as per the seniority list finalised and directed re-visitation of seniority list finalised after 10.03.2003. Since, the seniority list of the year 1995-96 batch which was published on 01.01.2024 based upon the roster, as per the direction issued by the Hon'ble Apex Court, the seniority should be revised in conjunction with the Hon'ble apex Court's direction. Hence, he had approached this Court with the present Writ Petition.

6.Mr.F.Deepak, learned Special Government Pleader appearing for the respondents 1 & 2 would submit that the selection process which were made after 10.03.2003 were revisited and revised by the third respondent. He would further submit that the seniority list published by the Department on 29.04.2004 comprises not only the Assistant Engineers who were appointed during 1995-96 recruitment year but also included Assistant Engineers who were appointed since 1973 and the Assistant Engineers who were re-designated so and also included Assistant Engineers who were appointed through recruitment by transfer and Assistant Engineers appointed on compassionate grounds .



W.P.(MD) No.7183 of 2025

WEB COPY

7. It is not the seniority list/ selection processes that is conducted prior to 10.03.2003 needs to be revisited, but the seniority list/ selection processes conducted after 10.03.2003, because the Apex Court in its order 18.04.2023 in Cont.P.(Civil) Dairy No.6415 of 2021 had frozen the seniority/list/selection processes prior to 10.03.2003. He would submit that the petitioner joined the service as early as on 27.01.1998 and therefore, the selection process was completed prior to 10.03.2003 and therefore, he is not entitled to be granted with a Mandamus as prayed for.

8. Mr.J.Anand Kumar, learned Standing Counsel appearing for the third respondent would adopt the arguments made by the learned Special Government Pleader.

9. I have considered the submissions made by the learned counsels appearing for their respective parties and perused the materials available on record.

10. The contention of the petitioner is that they being the TNPSC



W.P.(MD) No.7183 of 2025

WEB COPY

selectees and having appointed as Assistant Engineers in the second respondent/ department would have to be ranked as per the merit in the seniority list and not as per the communal roster based upon the judgment of the Hon'ble Apex Court in Bimlesh Tanwar's case. On the contrary, it is the contention of the respondent that the appointees prior to 10.03.2003 should had been fitted as per the roster in the seniority list and which is finalised before the said date need not be revisited as per the further orders of the Hon'ble Apex Court in Contempt Petitions (Civil) Diary No(s).6415 in SLP(c) No.2886 of 2016 dated 18.04.2013.

11. The Division Bench of this Court in W.A. No.2705 of 2013 etc., batch in its judgment delivered on 31.03.2015 had dealt with an issue of drawing seniority list on the claim made by the selectees by the third respondent pursuant to the notification issued on 10.07.1999 and passed the following order. For better appreciation, the relevant paragraph of the said order is extracted hereunder:-

“...84.It will be clear from the above discussion (i) that the decision of the respondents to treat the 100 point roster itself (prevailing at that time) as the seniority list, on the basis of the decision of the



W.P.(MD) No.7183 of 2025

WEB COPY

Supreme court in P.S.Ghalaut, was not correct in view of the peculiarity of the roster in the State (ii) that in any case, the decision rendered in P.S. Ghalaut was declared as not a good law in Bimlesh Tanwar in the year 2003, without specifically invoking the doctrine of prospective overruling (iii) that at any rate, the first ever seniority list was released by the Engineer-in-Chief of the Highways department only on 29.4.2004, which was subsequent to the decision in Bimlesh Tanwar (iv) that all other proceedings issued prior to 29.4.2004, on which reliance is placed by the respondents to attribute knowledge of the seniority position to the appellants herein, did not speak about fixation of seniority specifically and hence the first seniority list should be taken to have been issued only on 29.4.2004 and (v) that therefore, the seniority of the appellants vis-a-vis the other selectees under the notification dated 10.7.1999 should be determined only with reference to the rank assigned to them by the Service Commission in terms of rule 35 (a) of the General Rules for Tamilnadu State and Subordinate Services and not as per the roster. Therefore, the appellants are entitled to succeed...”

12. The Hon'ble Division Bench after recording a finding with the seniority list in respect of the Assistant Engineers as have been only first fixed on 29.04.2004, had held that the selectees under notification dated



W.P.(MD) No.7183 of 2025

WEB COPY

10.07.1999 should only be determined with reference to the rank assigned by the Service Commission in terms of Rule 35A of the General Rules of the Tamil Nadu State and Subordinate Rules in coming to the said conclusion the Hon'ble Division Bench of this Court had recorded a finding of the fact that only on 29.04.2004, the first ever seniority list appears to have been issued by the Engineer-in-Chief of the Highways Department and that by the time the said seniority list had been issued, the Hon'ble Apex Court had pronounced its verdict in the Bimlesh Tanwar's case holding that the P.S.Ghalaut is not a good law.

13. The Hon'ble Division Bench further held that when that being so, any executive instruction containing contrary mandate will automatically become null and void. For better appreciation, the relevant paragraph of the said judgment in W.A.No.2705 of 2012 etc. dated 31.03.2015 is extracted hereunder:-

“...44.But the above contention is unsustainable. In so far as the Highways Department is concerned, the first ever seniority list appears to have been issued only on 29.4.2004 by the Engineer in Chief of the Highways Department. No other list purporting to be a clear cut seniority list issued at any time before 2004 has been



W.P.(MD) No.7183 of 2025

WEB COPY

brought to our notice. By the time the seniority list dated 29.4.2004 was issued, the Supreme Court had already pronounced its verdict in Bimlesh Tanwar that P.S. Ghalaut is not a good law. Therefore, the Engineer in Chief of the Highways Department should not have followed the Government Letter issued on the basis of the decision in P.S.Ghalaut. Once a law is declared by the Supreme Court, any Executive Instruction containing a contrary mandate will automatically become null and void...”

14. In the present case also it is not disputed that the seniority list was first published in respect of the Assistant Engineers on 29.04.2004. Therefore, when such seniority list is published for the first time, it is for the respondents to follow the judgment of the Hon'ble apex Court in Dimlesh Tanwa's case and not otherwise. It is the contention that the selectees were all appointed prior to 10.03.2003 cannot hold good as what the Hon'ble Apex Court had held is that the seniority list that had already been published need not be revisited where benefits have been given to the persons selected already should not be disturbed.

15. In the present case, admittedly the selectees prior to 10.03.2003



W.P.(MD) No.7183 of 2025

WEB COPY

were never placed in any seniority list and no benefits of further promotion had been given to them. However, an apprehension had been made with regard to the Assistant Engineers who have been re-designated so and Assistant Engineers appointed by the recruitment by transfer and those who were appointed on compassionate grounds. This Court do not see any difficulty in drawing a seniority list of the selectees based upon their merits in respect of the recruitment years. The Assistant Engineers who came to be re-designated, appointed through recruitment by transfer and on compassionate grounds can all be fitted as per their date of appointment in the respective recruitment years in consonance with the Provisions of the Section 40(2) Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (hereinafter referred to as “the Act”).

16. For the aforesaid reasons, the Writ Petition stands allowed and there shall be a direction to draw a seniority list of the Assistant Engineers selected through TNPSC as per their merits in respect of their year selection and fit the Assistant Engineers so re-designated, appointed through recruitment by transfer and compassionate grounds by fitting them in the respective recruitment years based upon Section 40 (2) of the Act. Such exercise shall be



W.P.(MD) No.7183 of 2025

WEB COPY

carried out by the respondents within a period of twelve (12) weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs.

12.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Gba



W.P.(MD) No.7183 of 2025

WEB COPY

To:

- 1.The Additional Chief Secretary,
For the Government of Tamil Nadu,
Highways & Minor Ports Department,
Secretariat, Fort St.George, Chennai – 9.
- 2.The District General,
Highways Dpartment,
Guindy, chennai – 25.
- 3.The Tamil Nadu Public Service Commissioner,
Represented by its Secretary,
Frazer Bridge Road,
Chennai – 600 003.



WEB COPY



W.P.(MD) No.7183 of 2025

K.KUMARESH BABU, J.

Gba

PRE-DELIVERY ORDER
IN
W.P.(MD) No.7183 of 2025

12.12.2025