



W.P(md)No.6706 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:14.11.2025

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

**WP(MD)No.6706 of 2019**  
**and**  
**W.M.P(MD)No.5355 of 2019**

- 1.V.Subash Sankar
- 2.K.Samas
- 3.Kudankulam Nuclear Power Employees Union,  
Rep by its General Secretary,  
Mr.S.Renganathan,  
S/o.R.Subbiah  
Reg No.1078/TVL,  
Kudankulam Nuclear Power Project,  
Radhapuram Taluk,  
Tirunelveli-627 106.
- 4.HWP Scientific Assistant Association,  
Rep by its Secretary,  
V.Ganesan,  
S/o.M.Velu,  
Heavy Water Plant,  
Government of India,  
Department of Atomic Energy,  
Tuticorin-628 007.

... Petitioners

Vs.

- 1.The Government of India,  
Rep by its Secretary,  
Department of Atomic Energy  
Anusakthi Bhavan,  
C.S.M.Marg,  
Mumbai-400 001.



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2.Trombay Council(TC) &  
Trombay Scientific Committee(TSC)  
Rep by its Chairman,  
Bhabha Atomic Research Centre,  
Central Complex,  
Anusakthi Nagar,  
Mumbai-400 094.

3.Nuclear Power Corporation of India Limited,  
Rep by its Chairman & Managing Director  
Nabhikiya Urja Bhavan, Anusakthi Nagar,  
Mumbai-400 094.

4.Heavy Water Board,  
Represented by its  
Chairman & Chief Executive,  
Heavy Water Board,  
5<sup>th</sup> Floor, V.S.Bhavan,  
Anusakthi Nagar,  
Mumbai-400 094

... Respondents

**Prayer:** Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Declaration to declare the guidelines for promotion in Table III- Promotion Norms for Licentiates/Diploma Holders in Engineering/BSc(Technical Stream) in the Merit based promotion scheme recommended by the second respondent and approved by the first respondent on 20.03.2009 with effect from 01.01.2009 insofar as taking away the accrued rights of the Scientific Assistants(C) to Scientific Assistants (F) for promotion to the post of Scientific Officers (B) to Scientific Officers (E) and above as illegal and consequently for a direction, directing the first respondent to follow the merit based promotion scheme which was existing



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before 31.12.2008 for the Scientific Assistant (C) and above who joined in service before 20.03.2009 and apply the Revised Merit based promotion scheme which was issued on 20.03.2009 prospectively for the employees who were recruited on and after 20.03.2009.

For Petitioners : Mr.G.Karthick  
for M/s.T.Lajapathi Roy and Associates

For Respondents : Mr.V.Sasikumar,  
Senior Panel Counsel for Central Govt.,

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### **ORDER**

The present writ petition has been filed seeking writ of declaration to declare the guidelines for promotion in Table III- Promotion Norms for Licentiates/Diploma Holders in Engineering/BSc(Technical Stream) in the Merit based promotion scheme recommended by the second respondent and approved by the first respondent on 20.03.2009 with effect from 01.01.2009 insofar as taking away the accrued rights of the Scientific Assistants(C) to Scientific Assistants (F) for promotion to the post of Scientific Officers (B) to Scientific Officers (E) and above as illegal and consequently for a direction, directing the first respondent to follow the merit based promotion scheme which was existing before 31.12.2008.



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2.The brief facts, which are necessary for the disposal of the case is that, the petitioners 1 and 2 are serving as Scientist in the respondent Institution. The first petitioner promoted as Scientific Assistant(C) and (D) and Scientific Assistant(E). Similarly, the second petitioner was also the employee of the respondent Institution and he has also got promotion as Scientific Assistant (B), (C), (D), (E) (F) and (G) from his appointed post of Scientific Assistant(A). It is the specific submission of the petitioner that prior to 31.12.2008 the petitioners were eligible to be promoted as Scientific Officers, but due to the advent of the new Rule with effect from 01.01.2009 such avenue was closed. According to the petitioners, they have worked in the respondent Institution for more than 30 years, and that a accrued upon them to be considered for the post of Scientific Assistant. The impugned new rule has denied such consideration.

3.Heard Mr.G.Karthick, learned counsel appearing for the petitioners and Mr.V.Sasikumar, learned Senior Panel Counsel for Central Govt., appearing for the respondents.

4.The learned counsel appearing for the petitioners relies upon the judgment of the Hon'ble Supreme Court in *Union of India and Others V Sangram Keshari Nayak*, reported in (2007) 6 SCC 704, to support the



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petitioner's contention that the right to be considered for promotion is a fundamental right. He would also relied upon the Constitution Bench judgment in ***Chairman Railway Board and Other V C.R.Rangadhamaiah and Others***, reported in ***1997(6) SCC 623*** and would submit that any retrospective amendment affecting the accrued rights of the Government employee is invalid.

5.Per contra, Such contention was stoutly objected by the learned Senior panel Counsel appearing for the respondent that the amendment of service rule is the policy decision of the employer in which the employer has no role to play. Unless such rule is affecting the constitutional principle, or any of the parent Act. It is the further submission of the learned counsel for the respondent that the new rule came into effect from 01.01.2009. Whereas the present writ petition was filed only during 2019, therefore, the present writ petition will be hit by delay and latches. Apart from the above contention, the learned Senior Panel Counsel for the respondents would submit that the filing of the writ petition by the third and fourth petitioners is not maintainable as the Association has no locus to file the writ petition relating to the seniority of their member. Hence, prayed to dismiss the writ petition.



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6.I have been given my anxious consideration of the submission made on either side.

7.The short points to be considered in the present writ petition is that, can the employee has any right to challenge the amendment in the service rule and if so, to what extent.

8.In the present case, it is an admitted fact that prior to 01.01.2009 different set of service rule was in existence in the respondent department, and with effect from 01.01.2009, the service rule got amended. In the said service rule, the petitioner has grievance only against the particular rule only aggrieved with the new set of rules to the extent of affecting their promotional prospects. According to the petitioners, prior to 01.01.2009 they are eligible to be considered for the post of scientific officers, whereas such opportunity was denied subsequent to the amendment dated 01.01.2009. However, while looking at the affidavit of the petitioners, this Court is at loss to find the traces to find out as to how a right was accrued upon the petitioner.

9.While reading of the affidavit, this Court would only infer that, since because they have appointed prior to 01.01.2009, they must be considered for promotion according to old rule. In support of his contention in their



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affidavit, they have relied upon the judgment reported in ***Y.V.Rangaiah V I Sreenivasa Rao***, reported in ***AIR 1983 SC 852***,. No doubt, in the above judgment, there is a reference that if any appointment took place prior to the amendment of the service rule and that if any vacancy arises prior to amendment of the Service Rule, then such fact to be considered for promotion based upon the old rule. It is well settled principles of law that if the service rule is amended, unless any right accrued upon the employees, before such amendment effected the question of compelling the employer to follow the old service rule is contrary to the settled law. In the case in hand, as rightly submitted, this Court absolutely does not find any ingredient as to the accrual of right upon the petitioner, except their appointment prior to the amendment of the service rule.

10.It is also relevant to refer the judgment of the Hon'ble Supreme Court, in ***State of Himachal Pradesh and Others V Rajkumar and others***, reported in ***(2023) 3 SCC 773***, wherein the Hon'ble Supreme Court categorically held that, after the amendment of the service rule the promotion must be considered only in accordance with the new rule and not with reference to the old rule, and in such adoption the employee cannot have any grievance. Therefore, this Court absolutely does not find any merits in the present writ petition.



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11. Apart from that, the present writ petition also hit by delay and latches. It is an admitted fact that the rule came into effect on 01.01.2009, whereas the writ petition was filed after a decade during 2019. Besides, the petitioners' self serving statement that they had agitated their grievance within a period of 6 years, before the Management. But, the representation which is annexed along with the writ petition is of the year 2019. Therefore, though the learned counsel for the petitioner would submit that there were prior negotiation/representation, there are no material available before this Court to vindicate such position. Accordingly, the writ petition is also not maintainable on account of the delay. Though the learned counsel for the petitioners relies upon the Hon'ble Supreme Court judgments this Court has absolutely no opportunity rely upon the above judgment.

12. In view of the above, this Court does not find any merits in the present petition. Hence, the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**14.11.2025**

Index: Yes/No  
NCC: Yes/No  
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**C.KUMARAPPAN, J.**

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