

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 11.11.2024

PRONOUNCED ON : 03.04.2025

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CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

and

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

REV.APLC(MD).No. 95 of 2023

in

W.A(MD)No.1565 of 2021

and

C.M.P(MD)No.16402 of 2023

1. The Secretary to Government,
Panchayat and Rural Development Department,
Secretariat,
Fort Saint George,
Chennai – 9.

2. The Director,
Rural Development and Panchayat,
Panagal Building,
Saidapet, Chennai – 600 015

3. The District Collector,
Kanyakumari District at Nagercoil.
Applicants

... Review

/Vs./

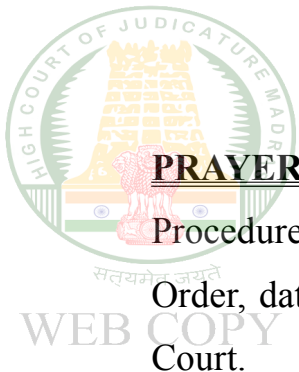
1. V.Balakrishnan

2. R.John Rajasekar

3. K. Raja Dhas

4. S.Sathu Sundar Singh

... Respondents



PRAYER: Review Application is filed under Order 47 Rule 1 & 2 of Civil Procedure Code read with Section 114 of Civil Procedure Code, to review the Order, dated 13.07.2023 made in W.A(MD)No.1565 of 2021 on the file of this Court.

For Review Applicants : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by
M/s.S.P.Maharajan,
Special Government Pleader

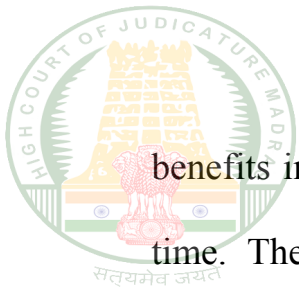
For Respondents : Mr.S.C.Herold Singh, for R-1 & R-2

ORDER

(Order of the Court was delivered by **S.SRIMATHY, J.**)

This Review Application is filed by the government against the order dated 13.07.2023 passed in W.A.(MD)No.1565 of 2021. The W.A. (MD)No.1565 of 2021 was filed by individuals against the order passed in W.P(MD)No.6169 of 2019.

2. The W.P(MD)No.6169 of 2019 was filed by the 1st and 2nd respondents along with the 3rd and 4th respondents herein, inter alia praying for issuance of Writ of Certiorarified Mandamus to quash the order passed in Se.Mu.No.E7/48790/2018 dated 30.01.2019 and consequently direct the 1st respondent to grant promotion to the petitioners to the post of Junior Assistant from the date on which they become eligible and grant all monetary and service



benefits in accordance to G.O.Ms.No.189 dated 10.06.1997, within a stipulated time. The said writ petition was closed vide order dated 17.03.2021 after recording the submissions of the government that the 1st and 2nd writ petitioners were granted promotion and the 3rd and 4th writ petitioners would be granted promotion at the appropriate time and turn. Aggrieved over the same, the 3rd and 4th writ petitioners had filed Writ appeal in W.A(MD)No.1565 of 2021 and the same was allowed. Aggrieved over the same, the present Review application is filed by the government raising various grounds.

3. The primary contention of the review applicant is that the as per G.O.Ms.No.963 Rural Development (E7) Department dated 28.11.1999 and G.O.Ms. No.189 Rural Development and Panchayat Raj (E5) Department, dated 10.06.1997 10% quota [20%, 25%] shall be granted to the in-service candidate and 45% to the direct recruits, but the aforesaid Government Orders did not contemplate to carry forward the vacancies to the subsequent years. Even in “vertical reservation” on the mandate of the Constitution of India, only the vacancies reversed for SC/ST are to be carried forward for 3 +1 year and liable to be de-reserved. Hence, the carry forward in the present GOs would be against public interest. This ground was raised by the review applicants in the writ appeal also and this Court had elaborately considered the same and negated the said contention.



4. The next contention is that under section 68 of the Tamil Nadu Civil Servants (Conditions of Service) Act 2016, the rules framed under Article 109 of the Constitution would prevail over the Government Order. Under Rule 3(g) of the Special Rules for Tamil Nadu Ministerial Services were amended contemplating promotion as Junior Assistant from the lower posts not exceeding 10% of the estimate of vacancies for a particular year. The said contention cannot be accepted, since 10% reservation is granted to basic servants, 20% from Panchayat Secretaries and 25% for compassionate appointment and 45% for direct recruitment. Infact the issue of 25% reservation for compassionate appointment is settled by various judgments. The same principle is applicable to the other reservation also.

5. The next contention of the review applicant is that keeping the post vacant, when there is no eligible candidates in a particular group, would cause a grave concern to public interest. The said contention cannot be accepted since the aforesaid G.O.s were passed in order to address the grievance of the certain categories of persons and to grant promotion opportunities to them, otherwise the said categories would not get any promotion during their entire service. Infact only 10% was reserved for said categories. Moreover claim of the review applicant that eligible candidates are not available is incorrect. The candidates may not be eligible this year, but they are eligible for the next year. If the 10% reservation is carried to the next year, all the eligible candidates would

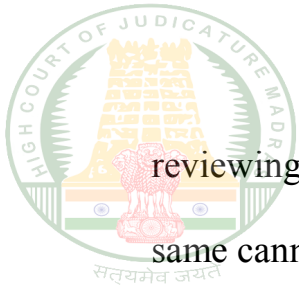


be getting promotion every year, otherwise the candidates ought to wait for the next eight to ten years. When the government had addressed the issue of promotion, but denying the same for some reasons is not permissible.

6. The next contention is the candidates are not possessing requisite qualification. The said contention cannot be accepted since the candidates were granted promotion on later point of time, then it can be held that the candidates have acquired requisite qualification.

7. The next contention is that the respondents were originally appointed not by following the procedures of Employment Exchange and they are not eligible in the first instance and they were brought into the regular time scale as OA/RC on the basis of their qualification in terms of G.O.MS.No.55 Rural Development and Panchayat Raj Department, dated 15.06.2006 and their services were regularised with effect from the forenoon of 14.11.2006. Their services are not pensionable and covered only under Contributory Pension Scheme. The said contention cannot be accepted. Once the said candidates were regularised through G.O.Ms.No.55, then the candidates are entitled to the benefits applicable to the said post.

8. All the grounds raised in the review application were raised in the writ appeal and the same were considered by this Court. Under the guise of



reviewing the order, the review applicants is arguing the writ appeal and the same cannot be entertained.

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9. In view of the foregoing reasons, this Review Application is liable to be dismissed and accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

[S.S.S.R., J.] [S.S.Y., J.]
03.04.2025

Index : Yes / No
NCC : Yes / No

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