IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.02.2026

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THE HONOURABLE Mr.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.18893 of 2009
and W.M.P.Nos. 1 to 3 of 2009

M.Malarvizhi ... Petitioner

Vs.

1. The State Of Tamilnadu
Rep By Its Principal Secretary to Government.,
Commercial Taxes And Registration Department,
Secretariat, Chennai 9.

2. The State Of Tamilnadu
Rep By Its Secretary,
Personnel And Administrative Reforms,
Secretariat, Chennai 9.

3. The Commissioner And Principal
Secretary,
O/o. The Commercial Tax Department,
Chepauk, Chennai 5.

4. The Joint Commissioner
(Administration (FAC))
O/o. The Principal Secretary/Commissioner Of
Commercial Taxes Department, Chepauk, Chennai 5.

5. G.Pavadaiswamy,

6. P.K. Rajendran

7. M.Sivakumar

8. G.Abirami

9. R. Boomadevi

10. V.Balasubramanian

11. C.Vasumathi

12. V.R.Lalitha

13. V.Venkataraman

14. S. Mahalakshmi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent in connection with the impugned order issued by him in Proc. No.Y1/38480/2005 dated 10.9.2009 and quash the same to the limited extent of inclusion of the names of the respondents five to fourteen therein and to direct the respondents to draw the regular panel for promotion to the post of Tamil Nadu Ministerial Service Superintendent of the year 2006 to 2009 strictly in accordance with the Statutory Rules.

For Petitioner	: Mr.M.Ravi
For Respondents	: Ms.P.Selvi Government Advocate

O R D E R

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to quash the order dated 10.09.2009 issued by the fourth respondent. By the said order, the fourth respondent confirmed the show cause notice dated 12.05.2006, whereby objections were invited in respect of the seniority list prepared for the post of Junior Assistant/Typist/Steno-Typist for promotion to the post of Assistant.

2. The petitioner was appointed as Junior Assistant on 17.10.1994. At the time of his appointment, promotion to the post of Assistant was governed by the ratio of 4:1 among Junior Assistants/Typists/Steno-Typists. Accordingly, he was promoted as Assistant on 25.09.1997. Subsequently, the Government Order prescribing the 4:1 ratio for promotion was set aside by the Tamil Nadu Administrative Tribunal. Certain employees working in the Municipal Administration Department filed O.A. No. 8145 of 1997 seeking fixation of seniority in conformity with the Tribunal's order. Upon abolition of the Tribunal, the said Original Application was transferred to this Court and renumbered as W.P. No. 28300 of 2005.4.

3. This Court, by order dated 04.04.2006, held that vacancies that arose up to 27.11.1992 could be filled following the 4:1 ratio, whereas vacancies arising after 27.11.1992 were to be filled based on inter se seniority of Junior

Assistants/Typists. It was further observed that no prejudice would be caused to any party, since the Government had stayed the operation of the earlier Government Order immediately after its issuance.

4. Six individuals working in the Commercial Taxes Department filed O.A. No. 3271 of 2001 before the Administrative Tribunal seeking re-drawing of the promotion panel for the post of Superintendent. The Tribunal, by order dated 28.06.2002, dismissed the said application. Despite such dismissal, the said individuals again submitted representations to the Government seeking re-drawing of the panel.

5. Pursuant thereto, the office of the Commissioner of Commercial Taxes, Chennai, issued a show cause notice proposing a revised combined seniority list of Junior Assistants/Typists/Steno-Typists for promotion to the posts of Assistant and Superintendent. The petitioner contends that the said show cause notice was not served on him and that the impugned order was passed without affording him an opportunity of hearing and without assigning reasons.

6. Learned counsel for the petitioner submitted that the petitioner, having been promoted as Assistant in 1997, was not afforded any opportunity before revising the seniority list and, on that ground alone, the revised combined seniority list is legally unsustainable. It was further submitted that the cadre of Steno-Typist was not originally included as a feeder category for promotion to the post of Superintendent and that only in the year 2001 was provision made for transfer from the post of Steno-Typist to Assistant. Therefore, setting aside the Government Order would not affect the petitioner's promotion.

7. Learned counsel for the respondents submitted that after the Government Order prescribing the 4:1 ratio was set aside, the combined seniority list was re-drawn strictly in accordance with the applicable rules and that there is no illegality warranting interference.

8. Heard the learned counsel on either side and perused the materials available on record.

9. It is not in dispute that the petitioner was promoted as Assistant in 1997 from the feeder category of Junior Assistant. The show cause notice proposing revision of the combined seniority list was issued inviting objections. The petitioner has categorically stated that the show cause notice was not served on him. The respondents, in their counter affidavit, have neither specifically denied the said assertion nor produced any material to establish that the petitioner was served with notice and afforded an opportunity of hearing before passing the impugned order. In the absence of proof of service of notice and compliance with principles of natural justice, the impugned order, insofar as it affects the petitioner, cannot be sustained.

10. Though the respondents contend that, during the pendency of this Writ Petition, the petitioner was promoted as Superintendent on 24.11.2010 and subsequently retired from service on 19.03.2021 upon attaining the age of superannuation, it is clear that only based on the revised seniority list under the impugned order, the junior was promoted to the post of Superintendent. In view of the violation of natural justice principles,

including non-service of notice and absence of hearing as discussed in the preceding paragraphs, this Court holds that the petitioner is entitled to notional promotion to the post of Superintendent on par with his junior. Furthermore, the impugned order assigns no reasons for placing the petitioner below his junior in the combined seniority list.

11. In view of the above, the following order is passed:

(i) The Writ Petition is disposed of.

(ii) The impugned order dated 10.09.2009 shall not be given effect to insofar as it relates to the petitioner.

(iii) The petitioner is entitled to be considered for notional promotion to the post of Superintendent on par with his immediate junior. The petitioner shall submit a comprehensive representation to the official respondents seeking such notional promotion.

(iv) Upon receipt of such representation, the respondents shall consider and grant notional promotion to the petitioner on par with his junior and revise his pension and other pensionary benefits accordingly. However, the petitioner shall not be entitled to arrears of salary or interest on account of such revision.

(v) The above exercise shall be completed within a period of three (3) months from the date of receipt of the petitioner's representation.

(vi) Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

16.02.2026

Index : Yes

Internet : Yes

Neutral Citation : Yes

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HEMANT CHANDANGOUDAR, J.

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