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W.P. Nos. 29670/2015 & etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.02.2026

DELIVERED ON : 13.03.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

**W.P. Nos. 29670/2015, 15623 of 2019, 15973 of 2018, 16924 of 2019,
14887 of 2019 and 1857 of 2020, 22881/2023,
26309/2018 and 26316 /2018**

And

**WMP.Nos.28559 of 2025, 22357/2023, 22358/2023, 22359/2023, 19210/2016,
31293/2016, 37948/2016, 2166/2020, 2168/2020, 17597/2021, 14872/2019,
18240/2019, 28244/2019, 1667/2020, 17598/2021, 8253/2020, 15516/2019,
18243/2019, 18400/2019, 18999/2018, 19000/2018, 6895/2020, 16502/2019,
16506/2019, 25988/2019, 14062/2019, 1215/2019, 13751/2019 and 1218/2019**

W.P.No. 29670 of 2015

1. K Palani
2. G.Ramu
3. U.Ramaraj
4. J.Kalidoss
5. Mrs.S.Vetriselvi
6. Mrs.M.Manimegalai
7. D.Gnanavel
8. E.Venkatesan
9. R.Rajkumar
10. S. Prema



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11. A.Sanbegaraman

12. S.Myviliselvi

13. O.Janakiram

14. K.Chenthil Kumaran

15. P.Ramakrishnan

16. R.Jaisankar

..Petitioners

Vs.

1. The Secretary,
Government of Tamilnadu,
Labour & Employment Department,
Secretariat, Chennai-600 009

2. Commissioner of Labour,
D.M.S., Mount Road,
Teynampet, Chennai-600 018

3. The Principal Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Chennai-600 009

4. N. Vasuki

5.K.P. Indhiya

6.C.Manjalnathan

7.B.Kotteeswari

(R4 to R7 are impleaded vide order of this
Court dated 19.04.2018)

8.D.Thamarai Manalan

9.G.Gnanasambantham

10.K.Ravi



W.P. Nos. 29670/2015 & etc., batch

11. S. Sudha

(R8 to R11 are impleaded vide order of
this Court dated 19.04.2018)

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the Memorandum dated 19.11.2015 in E2/34124/2015 by the 2nd respondent and quash the same and consequentially direct the Respondents to fix the inter-se-seniority and draw a Seniority List to the cadre of Labour Officer in accordance with Rule 35(aa) read with Rule 2(1) of State & Subordinate Service Rules for the post of Labour Officer and pass such further or other orders as deemed fit and proper in the circumstances of the case and thus render justice (PRAYER AMENDED AS PER ORDER DATED:27/06/2016)

For Petitioners : Mr.Karthik Rajan
For Mr. K.J. Parthasarathay

For Respondents : Mr. R. Neelakandan, AAG
Asst. by
Mrs. S. Anitha, Spl.GP – R1 to R3
Mr.N.Subramaniayn
For Mr. G. Mutharasu – R4, R6 and R7
Mr. V.Raghavachari, Senior Advocate
For Mr. N. Ramakrishnan
M/s. ARK Law Associates – R5
Mr. V.Sundar Raman – R8 to R11

W.P.No. 15623 of 2019

B. Kotteeswari,

.. Petitioner

Vs

1. The State of Tamil Nadu
Rep. by its Secretary,
Labour & Employment Department,
Fort St. Geroage, Chennai-600 009.



W.P. Nos. 29670/2015 & etc., batch

2. The Commissioner of Labour,
D.M.S. Compound,
Teynampet, Chennai-600 018.

3. The Secretary,
Tamil Nadu Public Service Commission,
Chennai-600 002.

4. The Principal Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Chennai-600 009

5. N. K. Dhanabalan,
6. G. Ramu,
7. U. Ramaraj,
8. K. Palani,
9. J. Kalidoss
10. A. Valarmathi
11. S. Vetriselvi
12. M. Manimegalai
13. I. Kannagi
14. S. Rajendran (Since Retired)
15. D. Gnanavel
16. E. Venkatesan
17. R. Rajkumar
18. S. Prema
19. A. Sanbegaraman
20. S. Myviliselvi
21. O. Janakiram

22. K. Chenthil Kumaran

23. P. Ramakrishnan
24. D. Lakshminarayanan
25. R. Jaisankar
26. P. Shobana
27. K. Thiruvalluvan
28. S. Ponnuswamy



W.P. Nos. 29670/2015 & etc., batch

29.T.Tamilarasi

30. M. Shanthi

31.D.Vimalanathan

..Respondents

(R28 to R30 impleaded vide order of this Court dated 08.07.2019
and R31 impleaded vide order of this Court dated 29.07.2021)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records Pertaining to the impugned G.O.(Ms)No.38 of Labour and Employment (El) Department, dated 09.04.2019, issued by the 1^a respondent and quash the same and consequently direct the Respondents 1 and 2 to revise the impugned seniority list of the Labour Officers by fixing the seniority of the 15 Labour Officers including the petitioner, placed at Sl.Nos.189 to 203 of the impugned seniority list who were appointed by direct recruitment through Tamilnadu Public Service Commission to fill up vacancies for the year 2010-2011, above the Labour officers, placed at Sl.Nos. 158 to 188 of the impugned seniority list who were appointed by recruitment by transfer in excess of their quota for the year 2011-2012, and pass such further or other orders.

For Petitioners : Mr. N. Subramaniyan
For Mr. G. Mutharasu

For Respondents : Mr. R. Neelakandan, AAG
Asst. by Mrs. S. Anitha, Spl.GP – R1, R2 & R4
Mr. B. Vijay, Standing Counsel – R3
Mr. V.Vijayshankar – R5 to R13, R15 to R23 and
R25 to R27.
Mr. R. Syed Mustafa – R28 to R31
(Respondent Nos. 4,14 and 24 – Batta no filed.)

W.P.No. 15973 of 2018

1 D.Thamaraimanalan
2.G.Gnanasambanthan
3.S.sudha
4.J.Ravi Jeyaram

..Petitioners

Vs.



W.P. Nos. 29670/2015 & etc., batch

1. The State of Tamil Nadu
Rep. by its Secretary,
Labour & Employment Department,
Fort St. George, Chennai-600 009.

2. The Commissioner of Labour,
D.M.S. Compound,
Teynampet, Chennai-600 018.

3. The Secretary,
Tamil Nadu Public Service Commission,
Chennai-600 002.

4.N.K. Dhanabalan

5.G. Ramu

6. U. Ramaraj

7. K. Palani

8.J.Kalidoss

9.A. Valarmathi

10.S.Vetriselvi

11.M.Manimegalai

12.L.Kannagi

13.S.Rajendran (Since Retired)

14.D.Gnanavel

15.E.Venkatesan

16.R.Rajkumar

17.S. Prema

18.A. Sanbegaraman

19. S.Myviliselvi

20. O.Janakiram

21. K.Chenthil Kumaran

22. P.Ramakrishnan

23.D.Lakshminarayanan

24.R.Jaisankar

25.P.Shobana

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned G.O. (Ms)No.48 of Labour and Employment Department, dated 02 04 2012, issued by the 1st Respondent, quash the same



W.P. Nos. 29670/2015 & etc., batch

and consequently direct the Respondents 1 and 2 to regulate the apportionment of vacancies for the post of Labour Officers from the year 2007-2008, 2008-2009, 2009-2010 2010-2011 and 2011-12 among the direct recruitment and recruitment by transfer strictly following the special rules for Labour Officers and pass such further or other orders.

For Petitioners : Mr.Sundar Raman

For Respondents : Mr. R. Neelakandan, AAG
Asst. by Mrs. S. Anitha, Spl.GP – R1& R2
Mr. B. Vijay, Standing Counsel – R3
Mr. R. Syed Mustafa – R4 to R8, R10, 11, 14, 21
and 24.
Mr.K.J. Parthasarathy – R15 to 20, 22 & 23
(Respondent Nos. 9, 12 and 13 – No appearance.)

W.P.No. 16924 of 2019

1. D. Thamaraimanalan,
2. G. Gnanasambanthan,
3. S. Sudha,
4. J. Ravi Jeyaram,

.. Petitioners

Vs

1. The State of Tamil Nadu
Rep. by its Secretary,
Labour & Employment Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Labour,
D.M.S. Compound,
Teynampet, Chennai-600 018.



W.P. Nos. 29670/2015 & etc., batch

3. The Principal Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Chennai - 600 009.

4. The Secretary,
Tamil Nadu Public Service Commission,
Chennai-600 002.

5. P. Shobana,

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for records relating to the order of the 1st respondent made in G.O.(Ms) No.38 of Labour and Employment Department, dated 09.04.2019, to quash the same and to consequently direct the respondents 1 and 2 to regulate the apportionment of vacancies for the post of Labour Officers (now Assistant Commissioner of Labour) from the year 2007-2008, 2008-2009, 2009-2010, 2010-2011 and 2011-2012 among the Direct Recruitment and Recruitment by Transfer by strictly following the Special Rules for Labour Officers and to re-fix the seniority and to pass such further or other orders.

For Petitioners : Mr.V.Sundar Raman

For Respondents : Mr. R. Neelakandan, AAG

Asst. by Mrs. S. Anitha, Spl.GP – R1 to R3

Mr. B. Vijay, Standing Counsel – R4

(Respondent No. 5 – Batta not filed.)

W.P.No. 14887 of 2019

S.P. Shanthi

..Petitioner

Vs

1. The State of Tamil Nadu
Rep. by its Secretary,
Labour & Employment Department,
Fort St. George, Chennai - 600 009.



W.P. Nos. 29670/2015 & etc., batch

2. The Commissioner of Labour,
D.M.S. Compound,
Teynampet, Chennai-600 018.

3. The Principal Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Chennai - 600 009.

4. The Secretary,
Tamil Nadu Public Service Commission,
Chennai-600 002.

5.N.K.Dhanabalan

6. G. Ramu,

7. U. Ramaraj,

8. K. Palani,

9.J. Kalidoss

10.A. Valarmathi

11.S.Vetriselvi

12.M.Manimegalai

13.I.Kannagi

14.S.Rajendran (Since Retired)

15.D.Gnanavel

16.E.Venkatesan

17.R.Rajkumar

18.S. Prema

19.A. Sanbegaraman

20. S.Myviliselvi

21. O.Janakiram

22. K.Chenthil Kumaran

23. P.Ramakrishnan

24.D.Lakshminarayanan

25.R.Jaisankar

26.P.Shobana

27.K.Thiruvalluvan

28. S.Ponnuswamy



W.P. Nos. 29670/2015 & etc., batch

29.T.Tamilarasi

30. M. Shanthi

31.D.Vimalanathan

..Respondents

(R28 to R30 impleaded vide order of this Court dated 03.07.2019
and R31 impleaded vide order of this Court dated 29.07.2021)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in relation to the impugned order in G.O.Ms.No. 38 Labour and Employment (E-1) Department dated 9.4.2019, quash the same and consequently direct the first respondent to fix the quota between direct recruits and promotees for vacancies each year in the ratio of 1:2 as per Explanation 1 to Rule 2 and Tamil Nadu Labour Service Rules and consequently prepare the final seniority list by following the Rota-Quota rule prescribed in Explanation 1 to Rule 2 of the Tamil Nadu Labour Service Rules and to pass such further or other orders.

For Petitioners : Mrs. Dakshayani Reddy, Senior Advocate

For M/s. S. Suneetha

For Respondents : Mr. R. Neelakandan, AAG

Asst. by Mrs. S. Anitha, Spl.GP – R1 to R3

Mr. B. Vijay, Standing Counsel – R4

Mr. V.Vijayshankar – R5 to R13, R15 to R27

Mr. R. Syed Mustafa – R28 to R31

(Respondent No. 14 – No Appearance.)

W.P.No. 1857 of 2020

1.D.Balathandautham

2.T.Murugesan

3.P.Lenin



W.P. Nos. 29670/2015 & etc., batch

4.C.Manjalnathan

5.M.Sridhar

..Petitioners

Vs

1. The State of Tamil Nadu
Rep. by its Secretary,
Labour & Employment Department,
Fort St. George, Chennai - 600 009.

2. The Commissioner of Labour,
D.M.S. Compound,
Teynampet, Chennai-600 018.

3. The Secretary,
Tamil Nadu Public Service Commission,
Chennai-600 002.

4. The Principal Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Fort St. George,
Chennai-600009.

5.P.Munian

6.K.M.C. Lingam

7.G.Geetha

8.M.M.Kamalakaran

9. A.Mohamed Abdul Kader Subair

10.S.Sudalairaj

11.V.G.Rameshkumar

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned orders in 1) G.O (3D) No.8, Labour and Employment (E1) dated 03-04-2008, (ii) G.O. (Ms) No.77, Labour and Employment (E1) dated 25-06-2009, (iii) G.O (Ms) No.79, Labour and Employment (E1) dated 28-04-2010 and (iv) G.O. (Ms) No.280, Labour and Employment (E1) dated 28-12-2010 issued by the 1st Respondent, and to quash the same and consequently direct the respondents 1 and 2 to regulate the



W.P. Nos. 29670/2015 & etc., batch

apportionment of vacancies for the post of Labour Officers (Now redesignated as Assistant Commissioner of Labour) from the year 2007-2008, 2008-2009, 2009-2010, and 2010-2011 among the direct recruitment and recruitment by transfer strictly following the Special Rules for Labour Officers taking into consideration of the fact that the Labour Officers recruited by transfer were temporarily promoted in violation of the ratio of exciting vacancies at the relevant point of time from the year 2007 to 2011 and fix the petitioners in appropriate place with all service and monetary benefits within a stipulated time and pass such further or other orders.

For Petitioners : Mr.K.S.Viswanathan, Senior Advocate

For Mr.Alihasan

For Respondents : Mr. R. Neelakandan, AAG

Asst. by M/s. M.Keerthika, GA – R1, R2
and R4

Mr. B. Vijay, Standing Counsel – R3

Mr. R. Syed Mustafa – R6 to R11

(Respondent No. 5 – No Appearance.)

W.P.No.22881 of 2023

1.D.Balathandautham

2.T.Murugesan

3.P.Lenin

4.C.Manjalnathan

5.M.Sridhar

..Petitioners

Vs

1. The State of Tamil Nadu

Rep. by its Secretary,

Labour & Employment Department,

Fort St. George, Chennai - 600 009.



W.P. Nos. 29670/2015 & etc., batch

2. The Commissioner of Labour,
D.M.S. Compound,
Teynampet, Chennai-600 018.

3.K.M.C. Lingam
4.G.Geetha
5.M.M.Kamalakaran
6. A.Mohamed Abdul Kader Subair
7.S.Sudalairaj
8.V.G.Rameshkumar

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent vide i) Memorandum of the Commissioner of Labour in E3/6134/2022 dated 20.07.2023 and ii). Memorandum of the Commissioner of Labour in E3/9611/2023 dated 21.07.2023 and quash the same as illegal and consequentially direct the respondents 1 and 2 to fix the seniority list of Direct Recruitment Candidates and Promotion Candidates of Assistant Commissioner of Labour under quota rota rule and in terms of Section 20-B of Special Rules for Tamil Nadu Labour Service and to promote the petitioners in appropriate place and to pass such further or other orders.

For Petitioners : Mr.K.S.Viswanathan, Senior Advocate

For Mr.Alihasan

For Respondents : Mr. R. Neelakandan, AAG
Asst. by M/s. M.Keerthika, GA – R1, and R2
Mr. R. Syed Mustafa – R3 to R7
R8 - Party-in-Person



W.P. Nos. 29670/2015 & etc., batch

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W.P.No. 26309 of 2018

S.P. Shanthi

..Petitioner

Vs

1. The Principal Secretary,
Government of Tamilnadu,
Labour & Employment Department,
Secretariat, Chennai-600 009

2. Commissioner of Labour,
D.M.S., Mount Road,
Teynampet, Chennai-600 018

3. The Principal Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Chennai-600 009

4. Abdul Azeez

5. U. Ramaraj

6.S.Vetriselvi

7. N.K. Dhanapalan

(R7 impleaded vide order of this Court dated 04.01.2019)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent herein in the proceedings No. E3/43422/2016 dated 17.09.2018 so far as inclusion of the names of the private respondents, quash the same with a consequential direction directing the respondents to draw the panel for promotion to the post of Deputy Commissioner of Labour for the year 2016 by including the name of the petitioner without insisting upon the service qualification as per Rule 2 of the Special Rules for Tamil Nadu Labour Services and consequentially promote the petitioner to the post of Deputy Commissioner of Labour with all attendant benefits and to pass such further or other orders.



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W.P. Nos. 29670/2015 & etc., batch

For Petitioner : Mrs. Dakshayani Reddy, Senior Advocate

For M/s. S. Suneetha

For Respondents : Mr. R. Neelakandan, AAG

Asst. by M/s. M.Keerthika, GA – R1 to R3

Mr. R. Syed Mustafa – R5 & R6

Respondent Nos. 4 & 7 – No appearance)

W.P.No. 26316 of 2018

K. Balamurugan

..Petitioner

Vs

1. The Principal Secretary,
Government of Tamilnadu,
Labour & Employment Department,
Secretariat, Chennai-600 009

2. Commissioner of Labour,
D.M.S., Mount Road,
Teynampet, Chennai-600 018

3. The Principal Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Chennai-600 009

4. Abdul Azeez

5. U. Ramaraj

6.S.Vetriselvi

7. N.K. Dhanapalan

... Respondents

(R7 impleaded vide order of this Court dated 04.01.2019)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus,calling for the records of the second respondent herein in the proceedings No.E3/43422/2016



W.P. Nos. 29670/2015 & etc., batch

dated 17.09.2018 so far as inclusion of the names of the private respondents, quash the same with a consequential direction directing the respondents to draw the panel for promotion to the post of Deputy Commissioner of Labour for the year 2016 by including the name of the petitioner without insisting upon the service qualification as per Rule 2 of the Special Rules for Tamil Nadu Labour Services and consequentially promote the petitioner to the post of Deputy Commissioner of Labour and to pass such further or other orders.

For Petitioner : Mrs. Dakshayani Reddy, Senior Advocate

For M/s. S. Suneetha

For Respondents : Mr. R. Neelakandan, AAG

Asst. by M/s. M.Keerthika, GA – R1 to R3

Mr. K.J. Parthasarathy – R5 & R6.

Respondent Nos. 4 & 7 – No appearance)

COMMON ORDER

Since the issues involved in all these writ petitions are interconnected and arise out of the same subject matter, they are taken up together and disposed of by way of this common order.

W.P. No. 29670 of 2015

2. This writ petition has been filed by the transferees challenging the memorandum dated 19.11.2015 issued by the Commissioner of Labour,



W.P. Nos. 29670/2015 & etc., batch

whereby the representations submitted by the transferees seeking determination, fixation, and communication of their inter se seniority in the cadre of Labour Officers were rejected. The petitioners contend that such fixation of seniority ought to have been carried out in accordance with the provisions of the Tamil Nadu State and Subordinate Service Rules.

W.P. Nos. 15623 of 2019, 15973 of 2018, 16924 of 2019, 14887 of 2019 and 1857 of 2020, 22881/2023, 26309/2018 and 26316 /2018

3. In these writ petitions, the petitioners are direct recruits appointed to the post of Labour Officer. They challenge the validity and correctness of G.O. (Ms) No. 38 dated 09.11.2019, whereby the transferees involved in these proceedings were placed above the direct recruits in the seniority list pertaining to the cadre of Labour Officers. The direct recruits were appointed in December 2012 against the vacancies pertaining to the year 2010–2011, whereas the transferees were appointed in April 2012 against the vacancies pertaining to the year 2011–2012.

4. Background of W.P. No. 29670 of 2015

4.1. W.P. No. 29670 of 2015 was originally filed seeking issuance of a writ of mandamus directing the official respondents to determine and fix the



W.P. Nos. 29670/2015 & etc., batch

inter se seniority and to draw up a seniority list for the cadre of Labour Officers in accordance with Rule 35(a)(i) read with Rule 2(1) of the Tamil Nadu State and Subordinate Service Rules. This court vide interim order dated 04.07.2018 directed the official respondents to prepare a seniority list for the post of Labour Officers (now redesignated as Assistant Commissioners of Labour) from the year 1997–1998, after inviting objections and suggestions from the concerned individuals through the Commissioner of Labour,.

4.2. Aggrieved by the order dated 04.07.2018 passed by the learned Single Judge, the petitioners in W.P. No. 29670 of 2015 preferred W.A. No. 1715 of 2018 before the Division Bench of this Court. The Division Bench disposed of the said writ appeal with a direction to the learned Single Judge to work out the inter se seniority between the parties after hearing all the affected parties and considering the various grievances raised, including those of the direct recruits.

4.3. Pursuant to the above directions, the first respondent examined the matter in detail after considering the objections and suggestions submitted by the concerned parties. Consequently, the earlier guidelines issued in G.O. 4(D) No. 30 dated 23.08.1996 were set aside. Thereafter, a final inter se seniority list



W.P. Nos. 29670/2015 & etc., batch

for the cadre of Assistant Commissioners of Labour (formerly Labour Officers)

was prepared between the direct recruits and the transferees from the year 1998 onwards, in accordance with Sub-section (2) of Section 40 of the Tamil Nadu Government Servants' Conditions of Service Act, 2016 (corresponding to the erstwhile Rule 35(aa) of the General Rules). In the said seniority list, the transferees were placed above the direct recruits. Aggrieved, the direct recruits are before this court.

5. Learned counsels appearing for the direct recruits, submitted that the Explanation to the Special Rules for the Tamil Nadu Labour Service, which governs appointments to the post of Assistant Commissioner of Labour, specifically provides that the first vacancy shall be filled by direct recruitment and the next two vacancies shall be filled by recruitment by transfer from the category of Deputy Inspector of Labour. Therefore, according to the learned counsel, invoking sub-section (2) of Section 40 of the Tamil Nadu Government Servants' Conditions of Service Act, 2016 for the purpose of fixing inter se seniority lacks statutory authority.

5.1. The learned counsel further submitted that, as per the Explanation to the Special Rules for the Tamil Nadu Labour Service, vacancies to the post of



W.P. Nos. 29670/2015 & etc., batch

Assistant Commissioner of Labour are required to be filled strictly in

accordance with the prescribed ratio between direct recruitment and recruitment by transfer. However, in the present case, the transferees were promoted by adopting a cadre-wise quota instead of following the vacancy-based ratio contemplated under the Special Rules. Consequently, the appointment of the transferees by way of promotion/recruitment by transfer is contrary to the said Explanation and results in their appointments being in excess of the quota earmarked for transferees, thereby encroaching upon the quota reserved for direct recruits.

5.2. It was therefore contended that when the very promotion of the transferees is contrary to the governing rules, such transferees, though appointed earlier in point of time, cannot claim seniority over the direct recruits whose appointments were made strictly in accordance with the rules governing appointment to the post of Assistant Commissioner of Labour.

5.3. The learned counsel further submitted that the Government had consistently followed a vacancy-wise quota for filling the posts of Deputy Inspector of Labour, in accordance with the principles laid down by the Tamil Nadu Administrative Tribunal, Madras, in O.A. Nos.1210 to 1225 of 1992.



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Pursuant to the said decision, G.O. 4(D) No.30 dated 23.08.1996 was issued

incorporating the principles enunciated by the Tribunal.

5.4. However, contrary to the Explanation to rule 2 the Special Rules for the Tamil Nadu Labour Service, the principles laid down by the Tamil Nadu Administrative Tribunal, and the Government Order issued adopting those principles, the first respondent has passed the impugned order placing the transferees above the direct recruits in the seniority list. According to the learned counsel, such action is arbitrary, contrary to the governing service rules, and violative of Articles 14 and 16 of the Constitution of India.

6. In support of their submissions, they relied upon the legal principles established by the courts in the following judgments:...

i. *Union of India and Others Vs. S.D.Gupta and Others* [(1996) 8 SCC 14]

ii. *All India Federation of Central Excise Vs. Union of India & Others* [(1999) 3 SCC 384]

iii. *Suraj Praksh Gupta and others Vs. State of J & K and Others* [(2000) 7 SCC 561],

iv. *Uttranchal Forest Rangers Association Vs.State of U.P and Others* [(2006) 10 SCC 346]

v. *Arvinder Singh Bains Vs. State of Punjab and Others* [(2006) 6 SCC 673]



W.P. Nos. 29670/2015 & etc., batch

vi. *AFHQ/ISOs SOs (DP) Association and Others VS. Union of India and Others [(2008) 3 SCC 331],*

vii. *R.K. Mobisana Singh Vs. KH. Temba Singh and Others [(2008) 1 SCC 747]*

viii. *Bhupendra Nath Hazarika and another Vs. State of Assam and Others [(2013) 2 SCC 516],*

7.1. In response, Mr.R. Neelakandan, learned Additional Advocate General appearing for the State, submitted that the total sanctioned strength in the cadre of Assistant Commissioner of Labour is 99 posts. As per the ratio prescribed in the Explanation to the Special Rules for the Tamil Nadu Labour Service, 33 posts are required to be filled by direct recruitment and the remaining posts by recruitment by transfer.

7.2. The learned Additional Advocate General further submitted that for the year 2011–2012, taking into account 13 vacancies that arose due to the retirement of direct recruits and 9 promotional vacancies, the total estimate of vacancies was approved as 22. Accordingly, 22 Deputy Inspectors of Labour were promoted and appointed as Assistant Commissioners of Labour on 02.04.2012.



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7.3. It was further submitted that the number of direct recruits holding the post of Assistant Commissioner of Labour at that point of time was 18. The estimate of vacancies for appointment to the post of Assistant Commissioner of Labour by direct recruitment for the years 2007–2008 to 2010–2011 was approved as 15. After applying the ratio prescribed under Explanation (1) to Rule 2 of the Special Rules, 14 candidates were appointed to the cadre of Assistant Commissioner of Labour by direct recruitment on 27.01.2012.

7.4. Therefore, according to the learned Additional Advocate General, by applying Explanation (1) under Rule 2 of the Special Rules, the vacancies were filled on the basis of a cadre-wise quota, that is, by maintaining the prescribed fixed percentage of posts in the cadre of Assistant Commissioner of Labour between direct recruitment and recruitment by transfer.

8.1. Learned counsel appearing for the transferees, submitted that the principles laid down by the Tamil Nadu Administrative Tribunal, Madras, are merely directory in nature and not mandatory. According to the learned counsel, those principles were issued only as a temporary arrangement and cannot override the statutory provisions governing the service.



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8.2 The learned counsel further submitted that the said principles are contrary to the Explanation to Rule 2 of the Special Rules for the Tamil Nadu Labour Service as well as Sub-section (2) of Section 40 of the Tamil Nadu Government Servants' Conditions of Service Act, 2016. It was therefore contended that the ratio of 1:2 prescribed for appointment to the post of Assistant Commissioner of Labour, with respect to the vacancies allocated between direct recruitment and recruitment by transfer, has been duly followed. Consequently, the inter se seniority has been fixed in accordance with Sub-section (2) of Section 40 of the Act, 2016. According to the learned counsel, the promotion of the transferees was made strictly in conformity with the statutory rules.

8.3. The learned counsel for the transferees further submitted that Section 47(1) of the Act, 2016 provides for filling vacancies by promotion from the lower category otherwise than in accordance with the normal provisions of the Act, in the interest of public service, in situations involving emergency or where undue delay would occur in making such promotions. In support of the above submissions, the learned counsel relied upon various legal principles laid down by the Courts in the following judgments:



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i. *Direct Recruit Class II Engineering Officers's Association Vs. State of Mharastra [(1990) 2 SCC 715]*

ii. *Jagdish CH. Patnaik and Others VS. State of Orissa [(1998) 4 SCC 456]*

iii. *BS. Mathur Vs. Union of India [(2008) 10 SCC 271]*

9.1 Mr. Ragavachari, learned Senior Counsel appearing for the direct recruits, who are the private respondents in W.P. No. 29670 of 2015, submitted that the contention of the State Government that it has adopted the principle of “men in position,” thereby maintaining the ratio of 1:2 in the total sanctioned strength of 99 posts (i.e., 33 posts for direct recruits and 66 posts for transferees/promotees), is contrary to the statutory rules.

9.2 According to the learned Senior Counsel, such an approach is not only violative of the relevant statutory provisions but also results in conferring undue advantage upon one category of employees, namely the promotees/transferees, under the guise of maintaining the prescribed ratio. This, according to him, amounts to permitting an illegality coupled with irregularity and is in clear violation of the quota-rota principle governing appointments to the cadre. Learned Senior Counsel further submitted that the said contention



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advanced by the State Government has already been held to be untenable by a

Division Bench of this Court in W.A. No. 7045 of 2016.

10. After considering the rival submissions made by the learned counsel appearing for the parties and upon perusing the materials placed on record, the central issue that arises for consideration in these writ petitions is as follows:

Whether the appointments to the post of Assistant Commissioner of Labour, to be made by way of direct recruitment and recruitment by transfer in the ratio of 1:2, ought to be implemented on the basis of a cadre-wise quota or a vacancy-wise quota.

11. Before examining the above issue, it would be appropriate to refer to the relevant statutory provisions governing appointment to the post of Assistant Commissioner of Labour and the fixation of inter se seniority between direct recruits and transferees in the said cadre.

11.1 Rule 2 of the Special Rules deals with appointment and qualifications for appointment among various posts in the Labour Department and prescribes qualifications for appointment to the post of Assistant Commissioner of Labour by direct recruitment and recruitment by transfer.



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Explanation to Rule 2 of the Special Rules reads as follows;

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Explanation: Notwithstanding anything contained in rule 6 of the General rules for the Tamil Nadu State and Subordinate Services, out of every three vacancies in the category of Assistant Commissioner of Labour including Assistant Commissioner of Labour (Plantation), the first vacancy shall be filled by direct recruitment and the next two vacancies shall be filled up by recruitment by transfer from the category of Deputy Inspectors of Labour”

11.2. A careful reading of the Explanation to Rule 2 of the Special Rules for the Tamil Nadu Labour Service makes it clear that appointments to the cadre of Assistant Commissioner of Labour are to be made in a specific sequence. The rule stipulates that out of every three vacancies in the cadre, the first vacancy shall be filled by direct recruitment and the next two vacancies shall be filled by recruitment by transfer from the category of Deputy Inspector of Labour. Thus, the scheme contemplated under the Special Rules is vacancy-based and not cadre-based.

11.3. In other words, appointments by way of direct recruitment and recruitment by transfer are to be made with reference to the vacancies that arise in the cadre as on the crucial date, and not with reference to maintaining a fixed ratio of 1:2 in the total sanctioned strength of 99 posts in the cadre of Assistant



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Commissioner of Labour. Therefore, vacancies arising due to the retirement of direct recruits or those arising due to the retirement of transferees cannot be treated separately for the purpose of maintaining the ratio in the total cadre strength.

11.4. The Special Rules do not contain any provision for determining the inter se seniority between direct recruits and transferees in the cadre of Assistant Commissioner of Labour. Therefore, the seniority has to be determined by applying the General Rules, particularly Section 40(2) of the Tamil Nadu Government Servants' Conditions of Service Act, 2016.

11.5. Sub-section (2) of Section 40 of the Tamil Nadu Government Servants' Conditions of Service Act, 2016 provides that where a service, class, category, or grade is filled by more than one method of recruitment, the seniority of a person appointed to such service or category shall be determined with reference to the date on which he is appointed to that particular category or grade. In other words, the provision contemplates that the person who is appointed earlier to a particular category or grade shall rank senior to a person who is appointed subsequently to the same category or grade.



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12. The learned counsel appearing for the petitioners- direct recruits do not dispute the interpretation or applicability of Sub-section (2) of Section 40 of the Act. However, their contention is that the very appointment of the transferees by way of recruitment by transfer is illegal, as the appointments were made without adhering to the quota-rotta principle prescribed under the Explanation to Rule 2 of the Special Rules for the Tamil Nadu Labour Service. The petitioners therefore contend that when the initial appointment itself is not in conformity with the governing rules, the benefit of seniority under Section 40(2) of the Act cannot be extended to such appointees so as to place them above the direct recruits whose appointments were made strictly in accordance with the applicable rules.

13. In response to the above contentions, the State has filed an additional counter-affidavit setting out the details of the vacancies allocated for appointment to the post of Assistant Commissioner of Labour by way of direct recruitment and by promotion/recruitment by transfer for the period from the year 2006–2007 to 2011–2012. The said details have been furnished in the form of a tabular statement, which is extracted below.



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Year	No. of vacancies allotted for Direct Recruitment	G.O In which appointment orders issued	No. of vacancies allotted for Promotees	G.O in which appointment orders issued
2006-2007	6 (Letter (D) No. 418/L&E (E1), dt: 05.06.2007)	G.O. (4D) No. 7, Labour and Employment Department, dt: 05.12.2008	Nil (Letter (D) No. 852, L & E, dt: 05.12.2006)	G.O (D) No. 123, Labour and Employment Department, dt: 03.04.2008
2007 - 2008	15 (Letter (D) No. 499/E1/2009, (L&E), dt: 31.08.2010)	G.O. (4D) No. 14, Labour and Employment Department, dt: 27.11.2012	12 (Letter (D) No. 455/L&E , dt: 13.06.2007)	G.O (3D) No. 12, Labour and Employment Department, dt: 29.04.2008
2008 - 2009		and G.O. (2D) No. 19, Labour and Employment Department, dt: 02.05.2014	28 (Letter (D) No. 6 /L&E , dt: 06.01.2009)	G.O (Ms) No. 77, Labour and Employment Department, dt: 25.06.2009
2009 - 2010			38 (Letter (D) No. 193/E1/2010, L&E, dt:31.03.2010) (only 22 vacancies have been filled)	G.O (Ms) No. 79, Labour and Employment Department, dt: 28.04.2010



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2010 - 2011			39 (Letter (D) No. 602/E1/2010, L&E, dt:25.11.2010) (only 27 vacancies have been filled)	G.O (Ms) No. 280, Labour and Employment Department, dt: 28.12.2010
2011 -2012	5 (letter (D) No. 256/E1/2011-9, (L&E), dt: 12.06.2012	G.O. (2D) No. 58, Labour and Employment Department, dt: 17.09.2013	22 (Letter (D) No. 65, L &E, dt: 03.03.2011)	G.O. (Ms) No. 48, Labour and Employment Department, dt: 02.04.2012

The vacancies allocated for appointment to the post of Labour Officer in the tabular column are based on the rota–quota principle, that is, on the basis of the cadre strength, and not on the basis of the actual vacancies that arose due to retirement or other reasons.

14. The petitioner in W.P. No. 15623 of 2019 has set out the alleged violation of the rota–quota rule in a tabular form. Neither the State nor the transferees have disputed the number of vacancies that arose during the period from 1998 to 2012, the excess appointments made in favour of the transferees, or the shortfall in appointments under the quota for direct recruits. The details of



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the vacancies available during the period from 1998 to 2012 and the

appointments made through direct recruitment and recruitment by transfer are

set out as follows:

Year of appointment	Actual appointments made in the year		Total appointments/ vacancies of the year	Excess (+) / Shortfall (-)	
	Rec.by transfer (Sl.No. From to)	DR (Sl.No. From ..to)		Rec. by Transfer	DR
1998	13 (1 to 13)	-	13	+4	-4
1999	10 (14 to 23)	11 (24 to 34)	21	-4	+4
2000	19 (35 to 53)	2 (54 & 55)	21	+5	-5
2002	-	1 (56)	1	-1	+1
2003	3 (57 to 59)	-	3	+1	-1
2008	18 (61 to 78)	11 (60, 79 to 88)	29	-	-
2009	28 (89 to 116)	-	28	+10	-10
2010	50 (117 to 166)	-	50	+16	-16
Total	141	25	166	+ 31	-31
2012	22 (167 to 188)	15 (189 to 203)	37	+13	-13
Total	163	40	203	+44	-44



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15. The table shows the appointments made to the post of Labour Officer between 1998 and 2012 through recruitment by transfer and direct recruitment. During this period, a total of 203 appointments were made, out of which 163 were by recruitment by transfer and only 40 were by direct recruitment. This resulted in a significant deviation from the prescribed 1:2 ratio, leading to excess appointments of transferees and a corresponding shortfall in direct recruits. Overall, there was an excess of 44 appointments by transfer and a shortfall of 44 direct recruit appointments, indicating a violation of the quota–rota principle governing the cadre.

16. In the preceding paragraphs, it has been held that the quota prescribed for appointment to the post of Assistant Commissioner of Labour is required to be applied on a vacancy-wise basis and not on a cadre-wise basis. Consequently, the appointments made by way of recruitment by transfer in favour of the private respondents are found to be in excess of the quota allotted to that category under the governing rules.

17. This view has been arrived at upon a proper interpretation of the Explanation to Rule 2 of the Special Rules, as well as the legal principles laid down by the Hon'ble Supreme Court and this Court in relation to the issue in



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question, wherein it has been held as follows:

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18. The interpretation of the Explanation to Rule 2 of the Special Rules was examined by the then Tamil Nadu Administrative Tribunal in O.A. Nos. 1201 and 1226 of 1992. The Tribunal, by order dated 18.02.1994, held that seniority normally starts from the date of regular appointment made according to the rules, not from the date of confirmation. If a person is appointed only temporarily or as a stop-gap arrangement, that period will not count for seniority. However, if the person continues in service and is later regularised according to the rules, the earlier service may be counted.

19. When appointments are made from more than one source, the prescribed quota between the sources must normally be followed. If the quota cannot be followed for a long time and appointments are made from one source in excess, it may indicate that the quota system has broken down. In such cases, if appointments were otherwise made according to the rules, those appointees should not be pushed below persons appointed later from another source. Also, if the rules allow relaxation of the quota, it may be presumed that such relaxation was granted when deviations occur.



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20. Pursuant to the order passed by the Tribunal, the Government issued orders in G.O. (D) No. 30 dated 23.08.1996, prescribing guidelines for fixing the inter se seniority between direct recruits and promotees. The above order passed by the Tribunal has attained finality and was not challenged by any party. The direct recruits contend that the guidelines prescribed in G.O. No. 30 dated 23.08.1996 have been consistently followed for fixing the inter se seniority between direct recruits and transferees in the Labour Department.

21. The petitioner in W.P. No. 14887 of 2019 has produced, in the typed set of papers, a memorandum dated 04.05.2009 issued by the Commissioner of Labour, Chennai. In the said memorandum, it is stated that pursuant to the orders passed by this Court in W.P. No. 41427 of 2002 and connected writ petitions dated 23.01.2004, the inter se seniority between the direct recruits and transferees in the cadre of Assistant Inspectors of Labour in the Tamil Nadu Labour Subordinate Service was revised and refixed based on the quota-rotta rule for the period from 1973 to 1996–1997, in two spells.



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22. The memorandum further states that for the period from 1997–1998 to 2007–2008, the quota–rota rule prescribed in G.O. Ms. No. 35, Labour and Employment Department, dated 21.03.1996, forms the foundational basis for fixing the inter se seniority between direct recruits and transferees.

23. The said quota–rota rule prescribed under the proviso to Rule 3 of the Special Rules for the Tamil Nadu Labour Subordinate Service does not contemplate the identification of one substantive vacancy for a direct recruit in every rotation of vacancies at the ratio of 1:4. Therefore, the rotation of vacancies within the prescribed quota of 1:4 has to be applied on a vacancy-by-vacancy basis, both in respect of substantive vacancies and non-substantive vacancies, for the purpose of integrating the seniority of direct recruits and transferees.

24. The Division Bench of this Court in W.P. Nos. 6627 to 6633 of 2005, by order dated 29.06.2009, while dealing with Explanation 1(a) to Rule 2 of the Special Rules for the Tamil Nadu Labour Service and Rule 6 of the General Rules for the Tamil Nadu State and Subordinate Services, held that the General Rules have not expressly repealed the Special Rules. Since the necessary conditions for the Special Rules yielding to the General Rules were not



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satisfied, and in view of the non-obstante clause contained in Explanation 1(a)

to Rule 2 of the Special Rules for the Tamil Nadu Labour Service, the Special Rules would prevail over the General Rules. The Division Bench further held that so long as the rule remains in force, the respondents are bound to implement the same. Therefore, without challenging the validity of Explanation 1(a) to Rule 2 of the Special Rules for the Tamil Nadu Labour Service, the petitioner Association cannot assail the correctness of the estimation of vacancies, including temporary vacancies, made in accordance with the said rule.

25. The Division Bench of this Court in W.A. Nos. 811 and 812 of 2011 and connected writ appeals, by order dated 17.04.2018, held that the inter se seniority between direct recruits and promotees must be determined on a year-to-year basis, by applying the ratio prescribed under the relevant Government Order. The Division Bench further held that such seniority has to be determined with reference to the dates on which the respective quota for each category became available in a particular year. It was further observed that whenever direct recruitment is made, the direct recruits would be entitled to placement of their seniority against the vacancies reserved for them under the prescribed ratio. Similarly, where promotees are promoted in excess of their quota, they



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cannot be granted seniority from the date of such promotion, but can claim seniority only from the dates on which vacancies within their quota became available.

26. The Coordinate Bench of this Court in W.P. Nos. 15683 and 15684 of 2011, by order dated 03.08.2018, held that as per Rule 8 of the Special Rules, the ratio prescribed for direct recruitment, transfer, and promotion is 1:1:5. This means that whenever the first vacancy arises, it must be earmarked for direct recruitment, and once the vacancy is earmarked for direct recruitment, the consequential benefit of seniority must also be assigned accordingly. However, the official respondents, while granting retrospective regularisation to the promotee Assistant Section Officers, permitted encroachment by promotee officers into the quota meant for direct recruits, thereby defeating the right of the petitioners to have their seniority fixed on the basis of their substantive appointment. The Court further observed that the crucial question is whether a substantive appointee has a better right than a temporary appointee, and the inevitable conclusion would be that a substantive appointee has a superior right. Accordingly, service benefits, including seniority, must be determined on that basis.



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27. In W.P. No. 15683 of 2011, the Coordinate Bench of this Court, by order dated 03.08.2018, further held that Section 40(2) of the Tamil Nadu Government Servants' Conditions of Service Act, 2016 has only a general application and cannot be invoked in cases where the quota-rota system is mandatory under the Special Rules.

28. In *Union of India and Others v. S.D. Gupta and Others [(1996) 8 SCC 14]*, the Hon'ble Supreme Court held that the object of direct recruitment is to blend talent with experience so as to enhance efficiency. Direct recruits may initially be appointed on a temporary basis; however, upon completion of the period of probation, they become substantive appointees. The quota of 60% reserved for direct recruits applies to substantive vacancies and, therefore, the fact that their initial appointment is temporary does not affect their entitlement to be treated as substantive appointees upon successful completion of probation.

29. In *All India Federation of Central Excise v. Union of India and Others [(1999) 3 SCC 384]*, the Hon'ble Supreme Court held that the Government had deviated from the prescribed ratio while making ad hoc promotions on the ground that one particular cadre had already been over-represented. Therefore, additional promotions were made in another category to



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correct the imbalance. Such action was held not to be unfair.

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30. In *Suraj Prakash Gupta and Others v. State of Jammu and Kashmir and Others* [(2000) 7 SCC 561], the Hon'ble Supreme Court held that promotees occupying posts meant for direct recruitment in excess of their quota must be pushed down and adjusted against subsequent vacancies within their quota after due regularisation. Service rendered outside the promotee quota cannot be counted for the purpose of seniority.

31. In *Uttaranchal Forest Rangers' Association v. State of Uttar Pradesh and Others* [(2006) 10 SCC 346], the Hon'ble Supreme Court held that promotion becomes regular only from the date on which a vacancy within the quota becomes available and that seniority must be counted from that date and not from the date of earlier promotion or subsequent confirmation. The Court further observed that although pushing down promotees appointed in excess of the quota may cause hardship, such consequence is unavoidable since the quota rule is statutory in nature and must be strictly followed. Any deviation from the statutory quota rule would violate Articles 14 and 16(1) of the Constitution of India.



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32. In *Arvinder Singh Bains v. State of Punjab and Others [(2006) 6 SCC 673]*, the Hon'ble Supreme Court held that injustice to direct recruits cannot be compounded by placing the promotees en bloc above the direct recruits in the matter of seniority, particularly when both categories were selected pursuant to the same requisition sent by the Government to the Public Service Commission.

33. In *AFHQ/ISOs SOs (DP) Association and Others v. Union of India and Others [(2008) 3 SCC 331]*, the Hon'ble Supreme Court held that promotees who are promoted within their quota under the relevant rules would be entitled to the benefit of continuous officiation from the date of their substantive appointment to the grade on the availability of a substantive post. However, those appointed only on a temporary basis would not be entitled to such benefit and would be liable to be reverted upon the joining of candidates selected through the UPSC. Such temporary appointees may avoid actual reversion if vacancies in their quota become available in the subsequent year and they secure substantive appointment on the basis of their seniority.

34. In *R.K. Mobisana Singh v. Kh. Temba Singh and Others [(2008) 1 SCC 747]*, the Hon'ble Supreme Court held that although seniority is not a



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fundamental right, it is a civil right. Retrospective regularisation of ad hoc promotees, which adversely affects the relative seniority of direct recruits, has been deprecated, particularly when no opportunity of representation has been given to the persons adversely affected.

35.. In *Bhupendra Nath Hazarika and Another v. State of Assam and Others [(2013) 2 SCC 516]*, the Hon'ble Supreme Court, referring to its earlier decision in *D. Ganesh Rao Patnaik v. State of Jharkhand*, held that promotions granted to promotees not in accordance with the quota rule cannot be justified by contending that the quota rule had broken down. The Court held that promotions made beyond the prescribed quota cannot be treated as valid so as to grant the promotees seniority over the direct recruits. Consequently, the Court held that the promotees were not entitled to claim seniority over the direct recruits.

36. The learned Additional Advocate General appearing for the State submitted that the vacancies were filled by taking into account the “men in position” in both the categories, namely direct recruits and recruitment by transfer, and therefore there was no excess appointment by way of recruitment by transfer. The Division Bench of this Court in W.P.No. 7045 of 2006 dated



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29.07.2009 observed that the Hon'ble Supreme Court had rejected the contention of the writ petitioner that the vacancy arising due to retirement of promotee officer belonging to a particular feeder cadre must be filled up by that category only. The Division Bench held that the department ought to have followed the vacancy based roaster in accordance with the ratio instead of post based roaster, therefore the contention of the learned Additional Advocate General is misplaced and contrary to Explanation to Rule 2 of Special Rules.

37. The Supreme Court in **Direct Recruit Class II Engineering Officers' Association** held that seniority normally starts from the date of appointment made according to the rules, not from the date of confirmation. If the appointment is only ad hoc or as a stop-gap arrangement, that period will not count for seniority. However, if a person continues in service and is later regularised according to the rules, the earlier service may be counted. Where recruitment is made from more than one source, the prescribed quota between sources must be followed. If the quota rule cannot be followed for many years, it may be treated as having broken down, and appointments made after following the rules should not be pushed below persons appointed later. If the rules allow relaxation of quota, such relaxation may be presumed when deviations occur. The Court also observed that quota may be fixed through



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executive instructions if rules are silent, and if such instructions are not followed for long, they may cease to operate. Finally, the Court emphasised that settled service positions should not be disturbed and that matters already decided by a competent court are barred by res judicata.

38. In *Jagdish Ch. Patnaik*, the Hon'ble Supreme Court held that merely prescribing a quota for recruitment from different sources does not automatically imply that the same quota would govern the determination of seniority. The Court observed that the quota fixed for recruitment and the principles governing seniority operate in different fields. Only in cases where promotees are appointed in excess of the quota prescribed for them under the rules can such appointments be treated as contrary to the governing rules and, consequently, liable to be disregarded while determining seniority.

39. In *B.S. Mathur*, which dealt with Rule 8 of the Delhi Judicial Service Rules, the Hon'ble Supreme Court considered the application of the rota-quota principle in determining inter se seniority between direct recruits and promotees. The Court observed that strict application of the rota-quota principle may, in certain circumstances, result in serious injustice, particularly where direct recruits enter service much later but are nevertheless placed above promotees who had been working in the cadre for several years. In such



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situations, where the rota-quota system has effectively broken down, the Court held that it would neither be fair nor equitable to grant seniority to later appointees over those who had already been appointed and were discharging duties in the cadre.

40. However, the decision in ***B S Mathur*** is clearly distinguishable from the facts of the present case. In the cases referred to above, the delay in filling the posts through direct recruitment was due to administrative reasons or the non-availability of suitable candidates, and the promotees had not encroached upon the vacancies earmarked for direct recruits. The promotions were made to meet administrative exigencies and not by occupying posts reserved for direct recruitment.

41. In the present case, however, the factual position is entirely different. The private respondents, who are transferees, were appointed in excess of the quota prescribed for recruitment by transfer under the governing rules. Such appointments have resulted in encroachment upon the vacancies earmarked for direct recruits. Therefore, the principles laid down in the case of ***BS. Mathur*** cannot be applied to the facts of the present case.



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42. The rota-quota rule generally operates with reference to the cadre strength and is therefore usually treated as a cadre-wise quota. Under the rota-quota rule, a fixed percentage of posts in the cadre is reserved for each source of recruitment. For instance, where the rule prescribes 50% for direct recruits and 50% for promotees, the appointments are made in a rotational order according to that quota. Under this system, the quota is calculated with reference to the total sanctioned posts in the cadre and not with reference to each individual vacancy. The rotation of posts is maintained within the overall cadre strength.

43. Under the quota-rota rule, however, the quota between different sources of recruitment is applied to each vacancy as and when it arises, and the rotational order determines the sequence in which such vacancies are to be filled. Thus, the quota is implemented on a vacancy-wise basis through rotation. In the present case, the Explanation to Rule 2 of the Special Rules provides for the quota-rota system. This means that when appointments are to be made from two sources, namely direct recruitment and recruitment by transfer, the first vacancy in the cadre of Assistant Commissioner of Labour shall be filled by direct recruitment and the next two vacancies shall be filled by recruitment by transfer, and the rotation shall continue in the same sequence.



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44. In the present case, there were certain years during which no appointments were made through direct recruitment, and the vacancies earmarked for direct recruits were instead filled by way of promotion by transfer, without carrying forward the backlog meant for direct recruitment. Consequently, the private respondents were promoted to the vacancies meant for direct recruits, thereby encroaching upon the quota reserved for direct recruits. Therefore, their appointments to the post of Assistant Commissioner of Labour cannot be treated as appointments to substantive vacancies within their quota. Such appointments are contrary to the governing rules and are therefore illegal and irregular. Consequently, the private respondents cannot claim seniority over the direct recruits, merely on the ground that they were appointed earlier in time.

45. The State and the transferees contend that the length of service of the transferees in the cadre of Assistant Commissioner is comparatively shorter than that of the direct recruits and, therefore, a greater number of vacancies arise on account of the retirement of transferees. According to them, those vacancies are subsequently filled by direct recruits, and therefore the direct recruits cannot claim any grievance in this regard.



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46. Though the above contention may appear attractive and logical at first glance, the same cannot be accepted. The Explanation to Rule 2 of the Special Rules, which governs the manner of appointment to the cadre, has neither been challenged nor amended by the State. As long as the rule remains in force, it is binding on the authorities and must be strictly followed.

47. It is a well-settled principle of law that when a statute prescribes that a thing must be done in a particular manner, it has to be done in that manner alone and not otherwise. Therefore, the appointments and the consequential fixation of seniority must necessarily be in accordance with the procedure prescribed under the said rule.

CONCLUSION :

48. In view of the foregoing discussion, this Court holds that the Explanation to Rule 2 of the Special Rules for the Tamil Nadu Labour Service contemplates implementation of the quota on a vacancy-wise basis (quota-rotas) and not on the basis of cadre strength. The materials placed on record demonstrate that the vacancies earmarked for direct recruitment were filled by



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recruitment by transfer without carrying forward the backlog, resulting in appointments of transferees in excess of their prescribed quota. Such appointments are contrary to the statutory rules and cannot confer any right of seniority over the direct recruits.

49. Consequently, the transferees who were appointed against vacancies meant for direct recruits cannot claim seniority over the direct recruits merely on the ground that they entered service earlier in point of time. Their seniority has to be adjusted in accordance with the quota–rota principle and the governing Special Rules. Accordingly, the impugned seniority fixation placing the transferees above the direct recruits cannot be sustained.

50. In view of the above, the Writ Petition in W.P.No. 29670 of 2015 filed by the transferees is dismissed. The writ petitions in W.P.Nos. 22881/2023, 1857/2020, 14887/2019, 15623/2019, 15973/2018, 16924/2019, 26309/2018 and 26316 of 2018 filed by the Direct recruits are allowed.

51. The official respondents are directed to rework the inter se seniority between the direct recruits and transferees in the cadre of Assistant Commissioner of Labour by applying the vacancy wise quota rota principle in



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accordance with the Special Rules within three (3) months from the date of

receipt of a copy of this Order. Consequently, the connected Miscellaneous

Petitions are closed. There shall be no order as to costs.

13.03.2026

Index: Yes

Internet : Yes

Speaking Order

Neutral Citation: Yes

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To

1. The Secretary,
Government of Tamilnadu,
Labour & Employment Department,
Secretariat, Chennai-600 009

2. Commissioner of Labour,
D.M.S., Mount Road,
Teynampet, Chennai-600 018

3. The Principal Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Chennai-600 009

4. The Secretary,
Tamil Nadu Public Service Commission,
Chennai-600 002.



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W.P. Nos. 29670/2015 & etc., batch

HEMANT CHANDANGOUDAR, J.

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**W.P. Nos. 29670/2015, 15623 of 2019,
15973 of 2018, 16929 of 2019,
14887 of 2019 and 1857 of 2020,
22881/2023, 26309/2018 and 26316 /2018**

13.03.2026