



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 16.03.2026	Pronounced on 27.03.2026
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CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP Nos.25124 of 2016 & 13375 of 2017

and

WMP.No.14404 of 2017

WP Nos.25124 of 2016

V.Kalaiarasi
W/o.Khurushev,
Personal Clerk,
Home Department,
Secretariat, Chennai-9.

..Petitioner(s)

Vs

1. The Secretary to Government
Personal and Administrative Reforms (H2)
Department,
Secretariat, Chennai-9.
2. The Secretary to Government
Home Department,
State of Tamil Nadu,
Secretariat, Chennai-9.

..Respondent(s)



WP No. 13375 of 2017

S.Mangayarkarasi
W/o.C.Kumaravelan,
Section Officer,
Labour and Employment Department,
25A/12, Ulagappan Street,
Triplicane, Chennai - 600 005

..Petitioner(s)

Vs

The State of Tamil Nadu
Rep. by its Secretary to Government
Personal and Administrative Reforms (Q)
Department, Secretariat,
Chennai - 600 009

..Respondent(s)

WP Nos.25124 of 2016

Writ Petition filed under Article 226 of Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the 1st respondent's proceedings in G.O.(4D) No.67 P & AR (H2) Department dated 04.11.2013 confirming the earlier proceedings in Order No.16804/H2/13-1 dated 06.06.2013 and quash the same and direct the 1st respondent to include the petitioner's name in the panel of Personal Clerks fit for promotion for the post of Senior Personal Clerks for the year 2012-2013 between Serial Nos.45 and 46 i.e., after her immediate senior and before her immediate junior and promote her as Senior Personal Clerk for the year 2012-2013 and grant her all service and monetary benefits.

WP No.13375 of 2017

Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus to direct the 1st respondent to include the petitioner's name in the panel of Section Officers fit for promotion for the post of Under



Secretary for the year 2017-2018 between serial Nos.9 and 10 i.e. after her immediate senior and before her immediate junior in the panel issued in G.O. (D) No.89 P & AR (Q) Department dated 05.05.2017 and promote her as Under Secretary for the year 2017-2018 and grant her all service and monetary benefits.

For Petitioner(s): Mr.N.Muthappan
(In both Writ Petitions)

For Respondent(s): Mr.S.Yashwanth
Additional Government Pleader
(In both Writ Petitions)

COMMON ORDER

WP No.25124 of 2016 has been filed to call for the records relating to the 1st respondent's proceedings in G.O.(4D) No.67 P & AR (H2) Department dated 04.11.2013 confirming the earlier proceedings in Order No.16804/H2/13-1 dated 06.06.2013 and quash the same and direct the 1st respondent to include the petitioner's name in the panel of Personal Clerks fit for promotion for the post of Senior Personal Clerks for the year 2012-2013 between Serial Nos.45 and 46 i.e., after her immediate senior and before her immediate junior and promote her as Senior Personal Clerk for the year 2012-2013 and grant her all service and monetary benefits.

2.WP No.13375 of 2017 has been filed to direct the 1st respondent to



include the petitioner's name in the panel of Section Officers fit for promotion for the post of Under Secretary for the year 2017-2018 between serial Nos.9 and 10 i.e. after her immediate senior and before her immediate junior in the panel issued in G.O.(D) No.89 P & AR (Q) Department dated 05.05.2017 and promote her as Under Secretary for the year 2017-2018 and grant her all service and monetary benefits.

3.WP No.25124 of 2016:

The case of the petitioner is that she was appointed as Personal Clerk in the Home department on 05.07.2007 through TNPSC recruitment. The petitioner had passed 10th Standard in 1995 and completed two year Foundation Course in Annamalai University in the year 1997, which is equivalent to Higher Secondary as per G.O.Ms.No.219, Personnel and Administrative Reforms Department dated 30.03.1968 (*hereinafter referred to as G.O.No.219, dated 30.03.1968*). The petitioner had completed BBA degree in 2001 through distance education course in Annamalai University. Thereafter, she passed M.Com in 2003 and Post Graduate Diploma in Computer Applications in 2005. She also obtained technical qualifications in Typewriting Tamil & English (Higher grade) and Shorthand Tamil & English (Higher grade) between 1997 and 2001. The qualification for the post of Personal Clerk is Bachelor's Degree and pass in the Government Technical Examination in Typewriting Tamil & English (Higher Grade). She completed probation on 17.07.2009 and her



service was regularized with effect from 04.07.2007.

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3.1.The petitioner became eligible for promotion to the post of Senior Personal Clerk for the year 2012 – 2013. The first respondent issued proceedings dated 25.04.2013 consisting of 58 eligible Personal Clerks, fit for promotion. The petitioner's name was not in the list, however, her juniors' names included. She submitted a representation dated 29.04.2013, requesting inclusion of her name between her immediate senior and junior, which was rejected by the 1st respondent by relying upon G.O.Ms.No.107 Personnel and Administrative Reforms (M) Department dated 18.08.2009 (*hereinafter referred to as G.O.107, dated 18.08.2009*), on the ground that her two year Foundation Course cannot be considered equivalent to +2.

3.2.She preferred an appeal on 23.08.2013 by relying upon the Division Bench judgment of this Court in W.A.No.1372 of 2013 dated 12.07.2013. However, the appeal was rejected on 04.11.2013 vide G.O.(4D) No.67 P & AR (H2) Department, dated 04.11.2013. Aggrieved by the same, she filed the present writ petition.

4.1.The first respondent filed a counter affidavit and contended that as per the Special Rules, for getting promotion to the post of Senior Personal Clerk for the year 2012 - 2013, a Bachelor's Degree is required. As per G.O.107, dated



18.08.2009, the degrees obtained through 10+2+3 pattern or through Open University after completing SSLC and Higher Secondary (+2) only are valid. In the present case, the petitioner obtained a B.B.A., degree after completing SSLC and two year Foundation Course from Annamalai University and not higher secondary (+2). The Government has given clarification in its letter No.33448/M/2010-4, Personnel and Administrative Reforms (M) Department, dated 03.12.2010, stating that such degrees obtained after completing Pre-Foundation or Foundation Courses are not recognized under UGC norms and are invalid for employment or promotion. Therefore, the petitioner was considered as “Not Qualified” and her request for inclusion in the panel was rejected.

4.2.The first respondent further contended that G.O.107, dated 18.08.2009, which is in consonance with the order of the Hon’ble Supreme Court made in Civil Appeal No.4173 of 2008, will prevail over the earlier Government Orders viz., G.O.(Ms).No.528, Personnel and Administrative Reforms (Personnel R) Department dated 18.05.1985, G.O.(Ms).No.219, Personnel and Administrative Reforms (Personnel R) Department dated 30.03.1988 quoted by the petitioner.

5.WP No.13375 of 2017:

The case of the petitioner is that she passed old SSLC (XI Standard) in



1978, she completed the two year foundation course at Madurai Kamaraj University in July 1984, which is equivalent to Higher Secondary (+2) as per G.O.Ms.No.528 Personnel and Administrative Reforms Department dated 18.05.1985. She obtained her B.Com degree through Distance Education during 1987 - 1990 and obtained technical qualifications in Typewriting English & Tamil (Higher Grade). The petitioner was appointed as Typist in the Municipal Administration and Water Supply Department through Tamil Nadu Public Service Commission and joined service on 28.09.1992.

5.1. Thereafter, she was promoted as Assistant on 06.06.1997, Assistant Section Officer on 07.05.1999 and Section Officer on 18.12.2008. Earlier, the posts of Assistant, Assistant Section Officer, Section Officer and Under Secretary required only a minimum general qualification. Subsequently, in June 2012, the rule was amended to prescribe a Degree as a qualification for promotion to the posts of Section Officer and Under Secretary, with effect from December 2011.

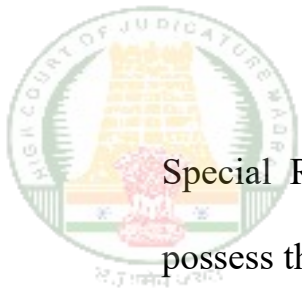
5.2. The first respondent by proceedings dated 14.10.2016, called for service particulars from eligible Section Officers for Under Secretary promotion panel for the year 2017 - 2018. The petitioner's department submitted her details as she was fully qualified. However, the first respondent published a panel in G.O.(D).No.89 P & AR (Q) Department dated 05.05.2017, without



including her name. She should have been placed between her immediate senior Ms.N.Rukmani (Serial No.9) and junior Ms.P.S.Subathra Devi (Serial No.10). Her representation dated 10.05.2017 did not yield any fruit. Hence this Petition.

6.The case of the respondent is that the petitioner joined the Secretariat Service on 28.09.1992 as a Typist. At that time, she had passed Old SSLC (11 years) and the two year foundation course. Then, she obtained her B.Com degree. Since the petitioner did not possess the prescribed educational qualification under Rule 3 of the Special Rules for the Tamil Nadu General Service (Class XII) and as per Explanation I under Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, her name was not included in the regular panel for the post of Under Secretary to Government for the year 2017 - 2018 issued in G.O.(D) No.89 P & AR (Q) Department, dated 05.05.2017.

6.1.A bachelor degree was prescribed as the required qualification for appointment to the posts of Section Officer and Under Secretary to Government through G.O.(Ms) No.88 P & AR (C) Department dated 15.06.2012 and G.O. (Ms) No.92 P & AR (C) Department dated 20.06.2012 respectively, which came into force with effect from 16.12.2011 by G.O.(Ms) No.163 P & AR (H1) Department, dated 16.12.2011. As per Rule 3, Class XII, Category 2 of the



Special Rules for the Tamil Nadu General Service, a Section Officer must possess the following qualifications to be included in the panel for promotion as

Under Secretary:

- i. A Bachelor's Degree from a University recognized by the University Grants Commission,
- ii. At least two years of service as Section Officer in Secretariat Departments other than Law and Finance and
- iii. Completion of District Training for 26 weeks as Section Officer.

6.2.The petitioner is not eligible as her degree was not obtained in the pattern prescribed in G.O.107, dated 18.08.2009. The crucial date for the panel for the year 2017 - 2018 was 01.09.2016. As on that date, the petitioner did not possess the required educational qualification under the relevant rules and Act and therefore, her name was not included in the panel. She was also informed about this through Government Letter No.32258/Q2/2016-9 dated 07.06.2017.

6.3.The Government had also clarified by its letter dated 03.12.2010 that degrees obtained through Open Universities after completing a Pre-Foundation Course and a two year Foundation Course cannot be recognized as valid degrees for employment or promotion in public services as per University Grants Commission (UGC) norms. The petitioner obtained her B.Com degree in 1994 through distance education after completing the two Year Foundation Course.



The Government issued orders in G.O.107, dated 18.08.2009, along with clarification dated 03.12.2010, stating that diploma, degree and postgraduate degrees obtained through Open Universities would be recognized for appointment and promotion in public service only if the candidate had first passed 10th Standard and then Higher Secondary (+2). The petitioner had earlier been promoted as Assistant in 1997, Assistant Section Officer in 1999 and Section Officer on 18.12.2008, that were before the issuance of G.O.107, dated 18.08.2009 and the clarification dated 03.12.2010. Therefore, the petitioners are not eligible to be promoted.

7.Mr.Muthappan, learned counsel appearing for the petitioners in both the writ petitions submitted that in the panel issued by the Respondents for the promotion to the post of Senior Personal Clerk and Under Secretary, the respective Petitioners' names were not included on the ground that the petitioners do not have the qualification prescribed in G.O.107, dated 18.08.2009. The learned counsel pointed out that this Court in W.P.No.28951 of 2016 by order dated 28.01.2026, considered an identical issue. The relevant portions are extracted hereunder:

“4. Mr.M.Muthappan, learned counsel for the petitioner, submitted that as per G.O.Ms.No.107, dated 18.08.2009, which was subsequently incorporated as Rule 19 of the Tamil Nadu State Subordinate Service Rules, the qualification prescribed for recruitment by transfer to the post of Under Secretary is 10+2+3.



Since the petitioner possessed the said qualification as on the relevant date, the denial of her claim is arbitrary, discriminatory, and violative of Articles 14 and 16 of the Constitution of India.

5. Learned counsel further submitted that the two-year Foundation Course completed by the petitioner is treated as equivalent to the Higher Secondary (+2) course, as per G.O.Ms.No.219, Personnel and Administrative Reforms Department, dated 30.03.1988. Therefore, the contention of TNPSC that the Foundation Course is not equivalent to +2 is untenable. In support of his submissions, learned counsel placed reliance on the judgment of a Division Bench of this Court in W.A.No.1372 of 2013, dated 12.07.2015.

...

10. G.O.Ms.No.107, dated 18.08.2009, which was later incorporated as Rule 19 of the Tamil Nadu State Subordinate Service Rules, prescribed that for recruitment to the post of Under Secretary by transfer, the candidate must possess a degree obtained after completion of S.S.L.C. and Higher Secondary (+2) in the 10+2+3 pattern.

...

15. At this stage, learned Standing Counsel for TNPSC brought to the notice of this Court G.O.Ms.No.144, Personnel and Administrative Reforms (M) Department, dated 20.11.2017, whereby G.O.Ms.No.219, dated 30.03.1988, was withdrawn. However, the said withdrawal is prospective in nature. Since the panel was drawn on 26.08.2015, the subsequent Government Order cannot divest the petitioner of the vested right that had already accrued to her.

16. In view of the foregoing discussion, this Court is of the



considered view that the petitioner acquired her degree in a regular pattern and that the two-year Foundation Course completed by her was validly treated as equivalent to Higher Secondary (+2) as per the Government Order in force on the relevant date. ”

8.The learned counsel for the petitioners relied upon the order of this court made in W.P.No.34077 of 2018 dated 26.08.2021, wherein this court held as under:

15. If the petitioner’s appointment as an Assistant Section Officer was valid in the year 2011 in the recruitment proceeding called for in 2008, the request of the petitioner for being promoted as a Section Officer cannot be denied on the ground stated in the impugned G.O.Ms.No.34 dated 8.11.2018. The petitioner has also completed six years as an Assistant Section Officer on date.

16. Incidentally, the Government has also issue G.O.Ms.No.221 dated 10.05.1990, relevant portion of which reads as follows:

“3.The Government therefore direct that the principle laid down in the above judgments be followed and it should be considered that once the relaxation is given exempting a person from possessing qualifications/passing Department/Special Test and other obligatory tests prescribed for the post, it should be held valid for all future promotions, where the same qualification is prescribed. The above decision, should be borne in mind while dealing with any case of relaxation of qualification rule to entry post in any service.”



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17. *Thus, the petitioner is entitled to the relief. While implementing this order, Respondents are also directed to effect changes in the Service Register of the petitioner, within a period of eight weeks from the date of receipt of copy of this order.*

The above order was challenged by the Government of Tamil Nadu in WA.No.1695 of 2022, wherein the Division Bench of this Court dismissed the same by judgment dated 18.08.2022. The relevant portions are extracted hereunder:

“4.3 It is not disputed and it is not even the case of the State Authorities that the petitioner has not completed three years graduation course. It is also not in dispute that prior thereto the petitioner had also completed higher secondary i.e plus two standards. The only point pressed into service is that, the writ petitioner at the relevant time had not passed S.S.L.C examination but had completed pre~foundation course from Madurai Kamaraj University, which at the relevant time was sufficient qualification to get admission in plus two i.e. XI and XII. The problem has started because, that recognition, at this stage is not the policy of the State in view of G.O. No.34 dated 08.11.2018. According to us, the educational qualification of the writ petitioner can not be said to have evaporated because of this. This would lead to absurd situation, that a person, who was possessing requisite educational qualification of graduation in the year 2011, will be held to be not possessing required educational qualification of the same degree, in the year 2018. The policy of the State can neither stipulate this nor can be read like this. We find that, the finding recorded by



learned Single Judge in the order under challenge, more particularly para : 15 of the order is just and proper and the same can not be said to be an error apparent on the face of record. We find that, rejection of writ petition would have acknowledged the perverse reading of the policy of the State and this was rightly not done by learned Single Judge. We were in full agreement with the grant of relief in favour of the writ petitioner. This appeal therefore needs to be dismissed.”

The view taken by the learned single Judge with regard to the pre-foundational course which was considered to be equivalent to SSLC has been confirmed by the Division Bench of this Court.

9.Per contra, the learned Additional Government Pleader pointed out that the writ petitioners are not entitled to be considered for promotion to the post of Senior Personal Clerk and Under Secretary respectively, for the reason that as on the date of drawing of panel, they did not possess the prescribed qualification in the 10+2+3 pattern, as mandated under the relevant Government Orders and Rules.

10.Heard the learned counsel on both sides and perused the available records.

11.Both writ petitions arise out of a common issue viz., non-inclusion of the petitioners' names in the respective promotion panels on the ground that



their degrees were not obtained in the 10+2+3 pattern as contemplated in G.O.107, dated 18.08.2009 and the subsequent clarification dated 03.12.2010.

Before proceeding further, it is appropriate to examine the relevant Government Orders.

i. G.O.Ms.No.219, Personnel and Administrative Reforms Department dated 30.03.1968, states as under:

“The Government have examined the proposal whether the two years Foundational Course conducted by Annamalai University can be considered as equivalent to Higher Secondary (+2) course of Tamil Nadu Government for purpose of entry into Public Services in this State. The Tamil Nadu Public Service Commission, Director of School Education, Madras University and the Madurai Kamaraj University who were consulted in the matter have all agreed for the recognition of the above said course for purpose of entry into Public Services in the State.

2.The Government accordingly direct that the two years Foundational Course conducted by Annamalai University be considered as equivalent to Higher Secondary (+2) course of Tamilnadu Government for purpose of entry into Public Services in this state.”

ii. G.O.Ms.No.528, Personnel & Administrative Reforms (P & R) department, dated 18.05.1985, states as under:

“3.The Government, after careful consideration direct that the pre-foundation course of the Madurai Kamaraj University-Open University be recognised as equivalent to the 10 years



SSLC of the Tamil Nadu Government for purpose of entry into Public Services in this State. The Government also direct that the two years Foundation Course of the Madurai Kamaraj University-Open University be recognised as equivalent to Higher Secondary (+2) course of the Tamil Nadu Government for the purpose of entry into Public Services in this State.”

iii. G.O.Ms.No.107 Personnel and Administrative Reforms (M)

Department dated 18.08.2009, states as under:

“4. இப்பரிந்துரையினை அரசு கவனமாகப் பரிசீலித்து, இணைக்கல்வி நிர்ணய பரிசீலிப்புக் குழுவின் பரிந்துரையினை ஏற்றுக்கொள்ள முடிவெடுத்து, அதற்கிணங்க, பள்ளி இறுதித்தேர்வு (பத்தாம் வகுப்பு மற்றும் பள்ளி மேல்நிலைக் கல்வித் தேர்வு (+2) ஆகியவைகளில் தேர்ச்சி பெற்றப்பின், திறந்தவெளிப் பல்கலைக்கழகங்களின் வழியாகப் பெறப்படும் பட்டயம்/ பட்டம்/முதுகலைப் பட்டங்களை மட்டும் பொதுப்பணிகளில் நியமனம்/பதவி உயர்வு பெற அங்கீகரித்து ஆணையிடுகிறது.”

12.It is not in dispute that in both cases the petitioners had acquired degrees through Open University scheme after completing SSLC and a two year Foundation Course, which was treated as equivalent to Higher Secondary qualification (+2) under earlier Government Orders referred supra. It is to be noted that both petitioners were appointed through TNPSC, their qualifications were accepted by the respondents and they were granted successive promotions over the years.



13.The entire case revolves around G.O.107, dated 18.08.2009, which was issued and had come into effect much before the crucial dates and the dates on which the panel for promotion to the post of Senior Personal Clerk for the year 2012-2013 and the post of Under Secretary for the year 2017-2018 were drawn. The point that arises for consideration in the present cases is, *whether the writ petitioners have obtained the educational qualification in the 10+2+3 pattern, prescribed under G.O.107, dated 18.08.2009?*

14.It is clear that though G.O.No.219, dated 30.03.1968 and G.O.Ms.No.528, Personnel & Administrative Reforms (P & R) department, dated 18.05.1985, has recognised the foundational course as equivalent to higher secondary (+2), the Government has issued G.O.107, on 18.08.2009 which recognises the degrees obtained through Open Universities only after completion of SSLC, Higher Secondary as a valid qualification for appointment and promotion in public services and the said G.O.107, dated 18.08.2009 is still in force.

15.It is to be considered that the respondents have passed the orders impugned in both the writ petitions by taking note of G.O.107, dated 18.08.2009, which prescribes the educational qualification for appointment and promotion in public services. The writ petitioners have not challenged the said viz., G.O.107, dated 18.08.2009, which stipulates that the educational



qualification in 10+2+3 pattern ie., in case of degrees obtained through Open University only after completion of SSLC and Higher Secondary as the requirement for promotion.

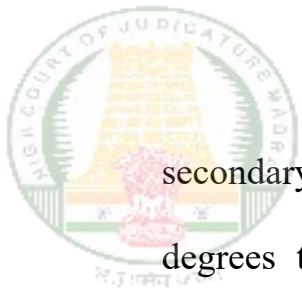
16.The learned counsel for the petitioners relied upon the order of this Court made in W.P.No.34077 of 2018 dated 26.08.2021, which was later confirmed by the Division Bench of this Court in W.A.No.1695 of 2022 dated 18.08.2022. In the order made in W.P.No.34077 of 2018 dated 26.08.2021, though G.O.(Ms).No.221 is referred, there is no discussion with regard to the applicability of G.O.(Ms.) No.221 dated 10.05.1990 to the issue involving validity of foundation course in the matters of promotion subsequent to issuance of G.O.107, dated 18.08.2009. Similarly, the order of this Court in W.P.No.28951 of 2016 did not dwell upon the inapplicability of G.O.107, dated 18.08.2009, which was in force before the crucial date for considering the promotion of the writ petitioner therein. Accordingly, both the orders relied upon by the learned counsel for the petitioner will not come in aid of the petitioners.

17.As mentioned supra, the said G.O.107, dated 18.08.2009 issued is much prior to the crucial date for promotion to the post of Senior Personal Clerk for the year 2012-2013 and to the post of Under Secretary for the year 2017-2018. However, without challenging the said G.O., the present impugned order



is challenged by the petitioners on the ground that the equivalent status given to the foundation course to that of Higher Secondary (+2) vide G.O.Ms.No.528, Personnel & Administrative Reforms (P & R) department, dated 18.05.1985 and G.O.No.219, dated 30.03.1968 has to be considered. When G.O.107, dated 18.08.2009, which is still in force is not challenged, the petitioners cannot challenge only the impugned orders which are passed on the basis of G.O.107, dated 18.08.2009 and the Government letter dated 03.12.2010 clarifying the G.O.107, dated 18.08.2009. In the light of the above, there is no infirmity in the orders passed by the respondent and the Writ Petitions are liable to dismissed.

18.As far as the Writ Petitioner in W.P.No.25124 of 2016 is concerned, this court has taken note of the fact that the qualification for the petitioner's initial appointment as Personal Clerk itself is a bachelor degree. The respondent has accepted the degree obtained after completing foundation course instead of higher secondary (+2) as a valid qualification for appointment as Personal Clerk on the strength of G.O.No.219, dated 30.03.1968. However, the said appointment was given on 05.07.2007, which is prior to the issuance of G.O.107, dated 18.08.2009. On the date of initial appointment, there was no requirement for the Government to verify whether the candidates who obtained their degrees through Open Universities have completed higher secondary or the foundation course which was considered to be equivalent to higher secondary. However, the said G.O.107, dated 18.08.2009 has prescribed SSLC & higher



secondary as a mandatory requirement for the candidates who obtained their degrees through Open Universities to become eligible for promotion. As G.O.107, dated 18.08.2009 is issued prior to the crucial date for considering the petitioner for promotion as Senior Personal Clerk, the petitioner is required to satisfy the criteria mandated under G.O.107, dated 18.08.2009. Therefore, the petitioner ought to have challenged the said G.O.107, dated 18.08.2009, if aggrieved. The challenge made against the impugned order passed by the respondents by considering the mandatory requirements for promotion under the Government Order which is still in force cannot be entertained.

19. In fine, both Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

27.03.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

sai



To

1. The Secretary to Government
Personal and Administrative Reforms (H2) Department,
Secretariat, Chennai-9.
2. The Secretary to Government
Home Department,
State of Tamil Nadu,
Secretariat, Chennai-9.
3. The State of Tamil Nadu
Rep. by its Secretary to Government
Personal and Administrative Reforms (Q) Department,
Secretariat, Chennai - 600 009



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WP Nos. 25124 of 2016 & 13375 of 2



N.SENTHILKUMAR J.

sai

Pre-deliver common order made in
WP Nos.25124 of 2016 & 13375 of 2017
and
WMP.No.14404 of 2017

27.03.2026

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