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WP No. 23445 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2026

CORAM

**THE HON'BLE MR JUSTICE P. VELMURUGAN
AND
THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI**

**WP No. 23445 of 2025
and
WMP No. 26315 of 2025**

1. Union Of India,
Represented By Secretary To Government,
Ministry Of Defence, South Block, New Delhi.
2. Ordnance Factory Board,
Represented By Its Chairman,
10 A, SK Bose Road, Kolkata-700 001.
3. The General Manager,
Engine Factory, Avadi, Chennai-600 054.

..Petitioner(s)

Vs

1. Engine Factory Avadi Other Backward
Class Employees Welfare Association
(EFAOBCEWA), Rep. by its General Secretary
Mr. R. Senthamaraikanan
2. Rekha
3. B.Loganathan

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of order issued by the Registrar, Central Administrative Tribunal, High Court Campus, Chennai



600104 in O.A. No. 372 of 2020 dated 22.01.2025 in allowing the O.A. filed by the respondents 1 to 3 with directions.

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For Petitioner(s): Mr. AR.L. Sundaresan, ASGI
for Ms. Sunita Kumari

For Respondent(s): Mr. Karthik for R1

Order
(Order of the Court was made by P.VELMURUGAN,J.)

The Writ Petition has been filed to quash the order of the Central Administrative Tribunal, Chennai Bench (for brevity 'the Tribunal'), dated 22.01.2025 made in O.A.No.372 of 2020.

2.The respondents herein, who are industrial employees, belong to General Category and they were promoted on various dates to Highly Skilled Grade-I, Highly Skilled Grade-II and Master Craftsman. Through an Office Memorandum (OM) dated 10.08.2010, the Department has made the 'own merit concept' applicable to employees for consideration of promotion, with effect from 02.07.1997. However, vide another OM dated 30.09.2016, instructions were given by the DoPT to not rely on the OM dated 10.08.2010, in view of the order of status quo granted by the Hon'ble Supreme in S.L.P.(C) No.30621 of 2011. Subsequently, DoPT had issued another OM dated 15.06.2018 directing all the Ministries and Departments to apply 'own merit principle' in matters relating to promotions, which was misinterpreted by the petitioners and orders



were passed revising the promotions of the respondents. In view of revision of promotions, the pay scale of the employees were reduced and they were reverted back to lower posts. Aggrieved by the same, the respondents have filed O.A.No.372 of 2020 before the Tribunal. The Tribunal, by its order dated 22.01.2025, had allowed the application by setting aside the order of the petitioners and had restored the original dates of promotion. Challenging the said application, the present Writ Petition is filed.

3.The learned Additional Solicitor General appearing for the petitioners would submit that OM dated 15.06.2018 was issued to implement or review promotions based on ‘own merit concept’, however, subject to the outcome of the decision of the Hon’ble Supreme Court. He also submitted that the promotions between the years 2016 and 2019 were issued with a stipulation that they would be subject to the outcome of the pending cases before the High Court and the Hon’ble Supreme Court. He submitted that when the respondents have not challenged the OM dated 15.06.2018, the Tribunal ought not to have directed for restoration of original dates of promotion without considering the fact that the issue is still pending before the Hon’ble Supreme Court.

4.The learned counsel for the 1st respondent would submit that revision of promotions subsequent to the OM dated 30.09.2016 is unsustainable. The learned counsel submitted that OM dated 15.06.2018 does not mandate the



application of 'own merit concept' as envisaged in the OM dated 10.08.2010 and it also does not direct the Department to review the promotion committees conducted prior to the issuance of the said OM. He further submitted that when the OM dated 15.06.2018 clearly stipulates that the pendency of the SLP before the Supreme Court shall not prevent the Department from taking steps for promotion, the promotions made on merit between 2016 and 2018 need not be revised and thus, the Tribunal was right in setting aside the order of the Department, thereby granting restoration of original dates of promotion.

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

6. The main issue in this case is whether the Department was justified in revising the promotions already granted to the respondents by applying the 'own merit concept', and whether the Tribunal was correct in restoring the original dates of promotion.

7. It is not in dispute that the Office Memorandum dated 10.08.2010, which introduced the 'own merit concept' with retrospective effect from 02.07.1997, was set aside by the Punjab & Haryana High Court and the matter is pending before the Hon'ble Supreme Court in S.L.P.(C) No.30621 of 2011, wherein an order of status quo has been granted.



8. The Hon'ble Supreme Court, by order dated 17.05.2018, has made it clear that the pendency of the said proceedings shall not stand in the way of the Union of India proceeding with promotions, including promotions on merits. Similar directions were also issued in connected matters on 05.06.2018. Thus, promotions were permitted to continue, subject to the final outcome of the proceedings. However, this Court is unable to agree with the view taken by the Tribunal, particularly insofar as it directed restoration of the original dates of promotion on the basis of its interpretation of the Office Memorandum dated 15.06.2018. At this juncture, it would be apposite to refer to the said Office Memorandum:

" North Block. New Delhi

Dated June 15, 2018

OFFICE MEMORANDUM

Subject: Implementation of interim Orders/ directions in Special Leave to Appeal (C) No.30621/2011 arising out of final judgment and order dated 15.07.2011 in CWP No. 13218/2009 passed by the Hon'ble High Court of Punjab & Haryana and Special Leave to Appeal (C) No. 31288/2017 arising out of Hon'ble Delhi High Court judgment dated 23.08.2017 and other related court cases - regarding

The Hon'ble Supreme Court vide its order dated 15.11.2017 in SLP(C) No.28306/2017 has decided to refer to a Constitution Bench to examine whether its earlier decision in M. Nagaraj and others vs. Union of India and others requires reconsideration or not, inter alia, on the issue as to whether test of backwardness would, at all, apply in case of SC and ST.

2. The Hon'ble Supreme Court in SLP (C) No.30621/2011 has passed the following Order on 17.05.2018:



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“It is directed that the pendency of this Special Leave Petition shall not stand in the way of Union of India taking steps for the purpose of promotion from 'reserved to reserved' and 'unreserved to unreserved' and also in the matter of promotion on merits.....”

3 Further in the matter related to SLP(C) No. 31288/2017, connected to Special Leave to Appeal (C) No. 28306/2017, the Hon'ble Supreme Court held as under on 05.06.2018:

“Heard learned counsel for the parties. Learned ASG has referred to order dated 17.05.2018 in SLP (C) No.30621/2011. It is made clear that the Union of India is not debarred from making promotions in accordance with law, subject to further orders, pending further consideration of the matter. Tag to SLP(C) No.30621 of 2011.”

4. The cadre controlling authorities of Central Government Ministries, Departments and Union Territories are to carry out promotions in accordance with the directions of the Hon'ble Supreme Court mentioned in paragraphs 2 and 3 above based on existing seniority/select lists.

5. Every promotion order must clearly mention the stipulation that the promotion shall be subject to further orders which may be passed by the Hon'ble Supreme Court.

6.All Ministries/ Departments are requested to bring this to the notice of all concerned for information/ compliance.

7.State Governments are also advised to take necessary action in accordance with the abovementioned orders passed by the Hon'ble Supreme Court."

A reading of the same makes it clear that promotions are to be effected in accordance with the interim directions of the Hon'ble Supreme Court and on the basis of the existing seniority/select lists. However, the Tribunal, while interpreting the said Office Memorandum, went to the extent of observing that any seniority/select list prepared after 15.06.2018 could be implemented. For better appreciation, the relevant portion of the Tribunal's order is extracted hereunder:-



"18. It is also important to note that during this period, the 'own merit concept' was not applicable. The OM dated 15.06.2018 clearly states that "the cadre controlling authorities of Central Government Ministries, Departments, and Union Territories are to carry out promotions in accordance with the directions of the Hon'ble Supreme Court, based on existing seniority/select lists." This means that any seniority list created after 15.06.2018 can be implemented. It is also clear that OMs are generally prospective in nature and cannot be applied retrospectively."

This Court is of the view that such an interpretation placed by the Tribunal goes beyond the plain terms of the Office Memorandum. The Office Memorandum only regulates the manner in which promotions are to be effected in conformity with the interim directions of the Hon'ble Supreme Court and does not justify the blanket restoration of the original dates of promotion. Therefore, the direction issued by the Tribunal cannot be sustained.

9. In the result, the order of the Tribunal dated 22.01.2025 made in O.A.No.372 of 2020 is set aside. The Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(P.V.,J.) (K.G.T.,J.)
09-04-2026

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