
(1991) 02 MAD CK 0021
In the Madras High Court

P. Ramachandran and Others

APPELLANT

Vs

A. Dakshinamurthy and Others

RESPONDENT

Date of Decision : 21-02-1991

Acts Referred:

Constitution of India, 1950 — Article 10

Citation : (1991) 2 MLJ 401

Hon'ble Judges : Nainar Sundaram, J

Bench : Division Bench

Judgement

Nainar Sundaram, J.—These four writ appeals are directed against the common order of the learned single Judge, in and by which he

disposed of two writ petitions. Respondents 4 and 6 in W.P. No. 8125 of 1982 are the appellants in W.A. No. 1214 of 1988. The petitioners in

W.P. No. 8125 of 1982 are respondents 1 and 2 in W.A. No. 1214 of 1988. Respondents 1 to 3 in W.P. No. 8125 of 1982 are respondents 3

to 5 in W.A. No. 1214 of 1988. Respondents 5 and 7 to 12 are respondents 6 to 12 in W.A. No. 1214 of 1988. Respondents 6,7,12,15, 16 and

20 in W.P. No. 8126 of 1988 are appellants in W.A. No. 1215 of 1988. The petitioners in W.P. No. 81 26 of 1988 are respondents 1 to 6 in

W.A. No. 1215 of 1988. Respondents 1 to 3 in W.P. No. 1826 of 1988 are respondents 7 to 9 in W.A. No. 1215 of 1988. The other

respondents in W.P. No. 8126 of 1988 are respondents 10 to 25 in W.A. No. 1215 of 1988. W.A. Nos. 199 and 200 of 1990 have been

preferred by respondents 1 to 3 in each of the writ petitions, making the petitioners and the other respondents, respondents in these two Writ

Appeals. We propose to refer to the parties as per their nomenclature in the writ petitions. W.P. No. 8125 of 1982 related to the services of

Geophysical Assistants in Tamil Nadu Engineering Subordinate Services Ground Water Wing of the P.W.D. W.P. No. 8126 of 1982 related to

the services of Geological Assistants in the same service. It is not necessary to dwell upon minute service details of these personnel except to state

that all of them got inducted into the services pursuant to appointments under Rule 10(a)(i)(i) of the Tamil Nadu State and Subordinate Services

Rules - General Rules. It must be stated that all of them were and are fully qualified and eligible to be inducted into the services. Their inductions

into the services were at different points of time, and they have earned different tenure of services. We are told that the maximum tenure of some of

the personnel range to 14 years. A need to regularise their services with effect from their date of joining duty was legitimately realised and felt and

ultimately by G.O.Ms. No. 349, Public Works Department, dated 7.3.1980, it took a concrete shape, when it was directed that a special test be

conducted by the Tamil Nadu Public Service Commission exclusively for these personnel, namely, temporary Geological and Geophysical

Assistants, who are already working in the Ground Water Wing. We must refer to the relevant proceedings preceding G.O.Ms. No. 349, Public

Works Department, dated 7.3.1980. On 2.3.1978, the Chief Engineer, Ground Water, Public Works Department, addressed the Government as

Follows:

PUBLIC WORKS DEPARTMENT

From:

Thiru C.A. Srinivasan, B.E., F.I.E.,

Chief Engineer (Ground Water)

10-A, Dhandapani Street,

T. Nagar,

Madras - 600 017.

To:

The Commissioner and Secretary to Government,

Public Works Department, Fort St. George, Madras - 600 009.

Letter No. A.2/5890/78, dated 2.3.1978.

Sub : Establishment - T.N.E.S.S. - Ground Water Wing - P.W.D. - Special

Selection for the regularisation of Geological Assistants and Geophysical Assistants - Requested.

Ref : i. G.O.Ms. No. 1924, P.W.D., dt. 24.12.77.

ii. G.O.Ms. No. 1925, P.W.D., dt. 24.12.77.

iii. G.O.Ms. No. 152, P & A.R (Personnel M.) Department, dated 10.2.1978;

In the G.O. first cited, the Government in the P.W.D. have framed the ad hoc rules governing the posts of Geological Assistant and Geophysical

Assistant in the Ground Water Wing, P.W.D. In the G.O. second cited, the Government have issued orders bringing the above mentioned posts

within the purview of the Tamil Nadu Public Service Commission and suitable amendment to the Tamil Nadu Public Service Commission -

Regulations 1954, has also been issued in the G.O. third cited.

2. I enclose two lists showing the details of Geological Assistants and Geophysical Assistants who are now working in the Groundwater Wing

under the emergency provisions of the rules. These incumbents have been recruited through the Professional and Executive Employment Office,

Madras, with effect from the dates noted against their names.

3. In view of the facts that these candidates are working in the Ground Water Wing for a long time without any break and the experience gained by

them is very much useful for the intensive, scientific, systematic investigation of the Ground Water potential in the Tamil Nadu State, I consider that

the services of these candidates should be utilised for the better working of the Department. Accordingly, I recommend that the Tamilnadu Public

Service Commission may please be approached to conduct a special selection for the regularisation pf the services of these candidates after

conducting a competitive oral examination.

4. In this connection, I have to state that most of the Departmental candidates have been specially trained in Ground Water Techniques in Courses

conducted by this Department and other agencies. The continued services of these candidates will greatly facilitate and accelerate the investigation

programme which is time bound and the work is programmed and be completed by 1980. Hence, this selection may be restricted to the

Geological Assistants and Geophysical Assistants who are already working in the Ground Water Wing, P.W.D., under the emergency provisions

of the rules.

5. I request that the commission may please be addressed for conducting the special selection at a very early date so that the services of the

existing personnel may be regularised in their respective categories with effect from the date of their joining duty in the Ground Water Wing.

2. Acting upon the above letter, the Government addressed the Tamil Nadu Public Service Commission on 15.7.1978 as follows:

To:

The Secretary, TNPSC,

Madras - 600 002. (W.C.).

Sir,

Sub : Establishment - Tamil Nadu Engineering Subordinate Service - Public Works Department - Ground Water Wing - Special selection for

recruitment of Geological Assistants and Geophysical Assistants - Suggestion.

Ref : From the Chief Engineer (Ground Water), Letter No. A2/5890/78 dated 2nd March, 1978.

I am directed to enclose a copy of the letter cited wherein the Chief Engineer (Ground Water) has suggested that the Tamil Nadu Public Service

Commission may be requested to hold a special selection for recruitment for the purpose of regularisation of services of the temporary Geological

and Geophysical Assistants in the Ground Water Wing of the Public Works Department.

2. The ad hoc rules for the posts of Geological Assistants and Geophysical Assistants were issued only in December, 1977 and the posts were

brought within the purview of the TNPSC only in February, 1978. In the meantime 68 persons (46 Geological Assistants and 22 Geophysical

Assistants) have been working in the Department in a temporary capacity and some of them have put in long years of service. It has been

represented that it will be a hardship to them, if they are asked to appear before the TNPSC along with the candidates from the open market and

run the risk of being not selected. Besides, the Department also will lose the experience gained by the Officers in these essentially technical posts.

In the circumstances, Government would request the TNPSC to hold a special Test exclusively for departmental candidates who have put in not

less than one year of service as on 1.6.1978 and who are qualified under the Rules, on the analogy of the Special Test ordered in G.O.Ms. No.

440, Public Works, dated 12.2.1971 in respect of Junior Engineers/Supervisors.

3. I am to request that the views of the Commission on the above suggestion may be obtained and communicated to the Government at an early date.

3. It is true that the Tamil Nadu Public Service Commission had been registering a note of dissent with regard to holding of a special test for the purpose. But this aspect is not very relevant for deciding the issue now before us. The Chief Engineer, Ground Water, Public Works Department, again addressed a letter on 25.4.1979 to the Government, and the relevant portions of the said letter are found at paragraphs 8 to 10 as follows:

8. In this connection, I have to state that the candidates whose names are furnished in the statements are working in the Ground Water Branch for

a long time without any break and the experience gained by them is very much useful for the systematic, scientific, investigation of Ground Water

potential in Tamil Nadu. Most of the departmental candidates have been specially trained in Ground Water techniques in various courses

conducted by this Department and other Agencies. The continued services of these candidates will greatly facilitate and accelerate the time bound

programme of Ground Water investigation of the Department. Moreover the candidates who were within the age limit at the time of appointment,

have now become overaged; unless their services are regularised by the Tamil Nadu Public Service Commission after conducting a special

selection, they will put in a very precarious position as they will not be able to get any appointment in the Government Service. This contingency

arises only due to the belated receipt of approved ad hoc rules in respect of these posts in the Ground Water Branch. The record of services of all

the candidates is found to be satisfactory.

9. In the circumstances, I recommend that the Tamil Nadu Public Service Commission may please be approached to conduct a special selection

exclusively for the regularisation of the services of the candidates from the date of appointment as furnished in the statements after conducting a

competitive oral examination.

10. I request that the commission may please be addressed at a very early date

in the matter so that the services of the existing personnel may be regularised in their respective categories with effect from the date of their joining duty in the Ground Water Branch and their inter re - seniority may also be fixed by the Commission with reference to the rule of reservation.

4. The Government made the last and the final say on the subject by directing the holding of special selection exclusively for departmental

candidates. What weighed with the Government in coming to that conclusion can well be gleaned from the following passages in G.O.Ms. No.

349, Public Works Department, dated 7.3.1980:

It will be a hardship to these Geological and Geophysical Assistants, who have put in long years of service, if they are now asked to appear before

the Service Commission along with the candidates from open market and run the risk of not being selected.

The Department will also lose the experience gained by these Officers in these essentially technical posts.

The Government have carefully examined the proposal of the Chief Engineer (Ground Water) in his letter first read above and the views of the

Tamil Nadu Public Service Commission in its letter third cited above. They consider that the object of holding special recruitment is for the

regularisation of temporary services of the Geological and Geophysical Assistants now working in the Ground Water Wing in view of their past

experience. They have, therefore, decided to hold special selection exclusively for the departmental candidates.

Thus it was declared that it will be a hardship to these Geological and Geophysical Assistants who have put in long years of service, if they should

be asked to appear before the Tamil Nadu Public Service Commission along with the candidates from open market and run the risk of not being

selected; and the Department would also lose the experience gained by these Officers in these essentially technical posts. It was also declared that

the object of holding special recruitment was for the regularisation of temporary services of these personnel. The Government in substance

implicitly accepted the recommendations of the Chief Engineer, Ground Water, Public Works Department to give regularisation to these personnel

with effect from their date of joining duty. It was only with this end in view, the

process of selection through the Tamil Nadu Public Service

Commission was chalked out. It was not the intention of the Government that there should be a fresh appointment after fresh selection.

Regularisation of the temporary services was the prime most and the only objective of the selection process, which had become a formal process

for a formal entry. Then the selection process through the Tamil Nadu Public Service Commission was gone through and without any omission all

the temporary personnel got selected. But the problem arose because in the list of candidates prepared by the Tamil Nadu Public Service

Commission on 1.8.1982, a ranking has been given stating that appointments should be made in the order of ranking. Since the intention was that

this ranking should and would be adhered to, while fixing the seniority of these personnel, the petitioners were obliged to come to this Court by

filing the writ petitions seeking for a writ of certiorarified mandamus to quash the list of the Tamil Nadu Public Service Commission dated 1.8.1982

and to direct the State of Tamil Nadu and the Tamil Nadu Public Service Commission to refix the seniority in respect of the petitioners in

accordance with the date of appointment in the services as such. It must be noted here that the ranking given in the list dated 1.8.1982 impugned in

the writ petitions has completely done away with and ignored the seniority of the petitioners, on the basis of their tenure of temporary service, and

has given them a low ranking.

5. The learned single Judge assessed the grievances of the petitioners and he found that the question that could relevantly arise for consideration is

as to whether the selection by the Tamil Nadu Public Service Commission would amount to a fresh recruitment or the selection was only for the

purpose of regularising the temporary services of the personnel. The learned single Judge referred to pronouncement of the Supreme Court in G.P.

Doval and Others Vs. Chief Secretary, Government of U.P. and Others, , amongst of her pronouncements and after opining that the selection by

the Tamil Nadu Public Service Commission was only for regularisation of the services of the temporary personnel and hence the services of such

personnel even during such tenure could not be forgotten for the purpose of fixing the seniority, allowed the writ petition in the following terms:

In the result, these writ petitions are allowed and the lists of candidates selected

for appointment as Geological Assistants and Geophysical

Assistants in the Ground Water Wing of the Public Works Department in the Tamil Nadu Engineering Subordinate Service are quashed so far as

the ranking of seniority is concerned and the Tamil Nadu Public Service Commission is directed to refix seniority with reference to the date of

continuous officiation of these candidates in the temporary service as Geological Assistants/Geophysical Assistants.

As already noted, these four writ appeals are directed against the common order of the learned single Judge.

6. The proposition that is being pressed forth by Mr.R.Krishnamoorthy, learned Counsel appearing for the concerned respondents in the writ

petitions, who are the appellants in the Writ Appeals W.A. Nos. 1214 and 1215 of 1988, followed by Mr. K. Ravirajapandian, learned

Additional Government Pleader, appearing for appellants in W.A. Nos. 199 and 200 of 1990, is that when an incumbent is initially appointed to a

post on ad hoc basis and as a stop gap arrangement and not according to rules, the officiation in such post cannot be taken into account for

considering the seniority. Mr. R. Krishnamoorthy, learned senior counsel would drawour attention to Rule 35(a) of the Tamil Nadu State and

Subordinate Service Rules, General Rules to say that the seniority of a person is service should be determined by the rank obtained by him in the

list of approved candidates drawn up by the Tamil Nadu Public Service Commission. Mr. S. Govindswaminathan, learned senior counsel

appearing for the petitioners, would counteract this submission made on behalf of the concerned respondents in the writ petitions, appellants before

us, by stating that when the initial appointments were not made, by following the procedure laid down by the rules - in the instant case the rules had

come to be framed only after all the persons got inducted into the services - and the appointees continued in the posts uninterruptedly till their

services were regularised, the period of officiating service should be counted.

7. The facts of the present case certainly cannot be lost sight of while we try to appreciate and apply any rule to govern the fixation of seniority. It

has been always countenanced that each case will depend upon its facts and circumstances. All the personnel had the benefit of appointment only

under Rule 10(a)(i)(i). They had their appointments at different points of time

and in that they have had earned the tenure of service or experience from the respective dates of their appointments. All the personnel got selected without a single exception through the process of the Tamil Nadu Public Service Commission. All of them have been absorbed by way of this process. It is true that the list published by the Tamil Nadu Public Service Commission says that the selectees shall be appointed only in the order indicated in the list. That could be only viewed as a declaration satisfying a formality, which could have no meaning at all to the practical features of the case, and certainly and legitimately deserves to be ignored as arbitrarily and cruelly, doing away with and cutting off the valuable service rendered by these personnel in the past. It would be a different matter, if someone from the open market also competed and got selected. The whole process was thought about and executed only to regularise wholesale the Rule 10(a)(i)(i) appointees. The prior proceedings cannot be omitted to be looked into. It was declared that regularisation would be effective from the date of their joining duty in Ground Water Wing. In the present case, all stood on par with each other in that all of them were Rule 10(a)(i)(i) appointees. The process of selection through the Tamil Nadu Public Service Commission was thought at only to absorb these personnel originally inducted into service under Rule 10(a)(i)(i). We could only view the selection process done by the Tamil Nadu Public Service Commission as a process of regularising the personnel already in service and not as a fresh process of making selection to the posts and appointing them as fresh appointees or new entrants. Here, we find that there was no person coming from the open market and getting selected, which process was intentionally and meticulously avoided, because the process of selection through Tamil Nadu Public Service Commission was thought of and executed as a special one only to mete out justice to the personnel already inducted into a service under Rule 10(a)(i)(i). Hence, it is not possible to obliterate the tenure of service put up by these personnel, while they did function pursuant to their appointments under Rule 10(a)(i)(i). The intention had been made very clear, though not in express language, but in a language, portent enough to convey that meaning, in the proceedings preceding the selection process that there should not be any arbitrary cut off of the service tenure of the personnel on the question of

seniority.

8. In *N.K. Chauhan v. State of Gujarat* AIR 1977 S.C. 2151 : (1977) 1 S.C.C 1037, it has been countenanced that,

Seniority, normally, is measured by length of continuous, officiating service... the actual is easily accepted as the legal. This does not preclude a

different prescription, constitutionality tests being satisfied.

In *K.B. Shukla and Ors. v. Union of India and Ors.* (1979) U.J. (S.C.) 396, it has been countenanced that,

a rule prescribing the length of service rendered by the person as the main criterion for fixation, of seniority is infinitely the best one since it ensures

fairness and equable treatment guaranteed by Article 16.

9. In *Baleswar Dass and Others Vs. State of Uttar Pradesh and Others*, , this is what has been set down with reference to the significance to be

annexed to temporary services and the injustifiability of arbitrary and cruel cutting off, of long years of service:

We must emphasise that while temporary and permanent posts have great relevancy in regard to the career of government servants, keeping posts

temporary for long, sometimes by annual renewals for several years, and denying the claims of the incumbents on the score that their posts are

temporary makes no sense and strikes us as arbitrary, especially when both temporary and permanent appointees are functionally identified. If, in

the normal course, a post is temporary in the real sense and the appointee knows that his tenure cannot exceed the post in longevity, there cannot

be anything unfair or capricious in clothing him with no rights. Not so, if the post is, for certain departmental or like purposes, declared temporary,

but it is within the keen of both the Government and the appointee that the temporary posts are virtually long-lived. It is irrational to reject the claim

of the "temporary" appointee on the nominal score of the terminology of the post. We must also express emphatically that the principle which has

received the sanction of this Court's pronouncements is that officiating service in a post is for all practical purposes of seniority as good as serving

on a regular basis. It may be permissible, within limits, for government to ignore officiating service and count only regular service when claims of

seniority come before it, provided the rules in that regard are clear and categorical and do not admit of any ambiguity and cruelly arbitrary cut off of

long years of service does not take place or there is functionally and qualitatively, substantial difference in the service rendered in the two types of posts. While rules regulating conditions of service are within the executive power of the State or its legislative power under Proviso to Article 309, even so, such rules have to be reasonable, fair and not grossly unjust if they are to survive the test of Articles 14 and 16 ... Of course, an appointee to a permanent post acquires certain rights which one who fills a temporary post cannot claim. Nevertheless, when the post is not purely temporary or ad hoc or of short duration or of an adventitious nature, the holder of such temporary post cannot be degraded to the position of one who by accident of circumstance or for a fugitive tenure occupies the temporary post for a fleeting term. We must make this distinction not only to be truthful to the facts of service life but also to do justice to those who have otherwise rendered long and satisfactory work in the Irrigation Department. In short, while we do make a distinction between permanent and temporary posts, when we come to the dimension of mere seniority, we whittle down the difference considerably. A post of short duration, say of a few months, is different from another which is terminologically temporary but is kept on for ten or more years under the head "temporary" for budgetary or other, technical reasons. Those who, are appointed and hold temporary posts of the latter category are also members of the Service provided they have been appointed substantively to that temporary post.

10. The principle has been reiterated in the subsequent pronouncement of the Supreme Court in *G.P. Doval and Others Vs. Chief Secretary, Government of U.P. and Others*, . There, in that case, due to exigencies of service, the Khandsari Inspectors were recruited to that post pending regular selection through Public Service Commission. Their appointment was subsequently approved by the Public Service Commission. But, a provisional seniority list was drawn up on the principle of the length of continuous officiation reckoned from the date of selection approved by the Public Service Commission in respect of each employee belonging to the cadre. The officiating service rendered by the Inspectors prior to their confirmation by the Public Service Commission was totally ignored, while determining their seniority. It was held by the Supreme Court that the

provisional seniority list of Khandsari Inspectors prepared by reckoning their officiating service from the date on which the approval/selection was

made by the Public Service Commission in respect of each member of the service was clearly violative of Article 10 of the Constitution of India. In

the context of the above case, it was observed;

Now if there was no binding rule of seniority it is well settled that length of continuous officiation prescribes a valid principle of seniority. The

question is : from what date the service is to be reckoned? It was urged that any appointment of stop gap nature or pending the selection by Public

Service Commission cannot be taken into account for reckoning seniority. In other words, it was urged that to be in, the cadre and to enjoy place

in the seniority list, the service rendered in a substantive capacity can alone be taken into consideration. We find it difficult to accept this bard and

wide submission. Each case will depend upon its facts and circumstances. If a stop gap appointment is made and the appointee appears before the

Public Service Commission when the latter proceeds to select the candidates and is selected, we see no justification for ignoring his past service.

At any rate, there is no justification for two persons selected in the same manner being differently treated.

11. Coming to Rule 35(a), relied on by Mr. R. Krishnamoorthy, learned senior counsel appearing for the concerned respondents, appellants in the

writ Appeals, W.A. Nos. 1214 and 1215 of 1988, there is a dispute even with reference to, in what contingency that rule could be applied. The

view, on this point taken by a bench of this Court in E. Paripooranam and Anr. v. Government of Tamil Nadu and Ors. W.A. No. 1203 of 1986

and W.P. Nos. 9781 and 10545 of 1986, judgment dated 7.7.1987, can be best appreciated, if the relevant passages from the said

pronouncement are extracted as hereunder:

Now it appears to us that on the facts of the present case, neither the contesting respondents nor the State Government can call in aid the

provisions of Rule 35 of the Rules. The only material part of Rule 35 is Clause (a) of that rule which reads as follows:

The seniority of a person in a service class or category or grade shall unless he has been reduced to a lower rank as a punishment, be determined

by the rank obtained by him in the list of approved candidates drawn up by the

Tamil Nadu Public Service Commission or other appointing authority, as the case may be, subject to the rule of Reservation where it applies. The date of commencement of his probation shall be the date on which he joins duty irrespective of his seniority.

Who is an approved candidate is specified in Rule 4. The material part of Rule 4 reads as follows:

All first appointments to a service or class or category or grade thereof state or subordinate, whether by direct recruitment or by recruitment by transfer or by promotion shall be made by the appointing authority from a list of approved candidates. Such list shall be prepared in the prescribed manner by the appointing authority or any other authority empowered in the Special Rules in that behalf. Where the candidates in such list are arranged in their order of preference application to the service shall be made in such order.

The proviso to Rule 4 is not relevant for our purpose. From a reading of Rule 35(a) with Rule 4 it appears to us that the scope of these rules is restricted to cases where appointments are made for the first time in accordance with the selection made by the Tamil Nadu Public Service

Commission in accordance with the list of approved candidates drawn by the Tamil Nadu Public Service Commission. Rule 35 could not have

been properly invoked by the State Government, if they desired to pass an order of regularisation. The very concept of order of regularisation is

that the period of temporary service has been converted into a period of regular service and deeming fiction is introduced that those persons whose

services had been regularised retrospectively must be treated for all purposes as being in regular service from the date from which their services

have been regularised. In other words, the period of temporary service has been converted into a period of regular service. Such appointments

cannot, therefore, be said to be made for the first time in accordance with the requirements of Rule 35 read with Rule 4.

We can as well follow the above ratio, as we are bound to. But, there is no need for us to express any positive opinion of Ours on this question

because even if Rule 35(a) should apply, this is a fit case, where the Government should act relaxing the rule, to avoid unjust results. In this

connection, we will be in order if we recapitulate the following principle

countenanced in Narender Chadha and Others Vs. Union of India and Others, :

But in a case where persons have been allowed to function in higher posts for 15 to 20 years with due deliberation, it would be certainly unjust to

hold that they have no sort of claim to such posts and could be reverted unceremoniously or treated as persons not belonging to the service at all,

particularly where the Government is endowed with the power to relax the Rules to avoid unjust results.

12. The selection being only for regularisation of the persons already employed temporarily, they having had got into the services under Rule 10(a)

(i)(i) it is not possible to forget the tenure of service put by them anterior to the regularisation. This selection is a formality adopted to regularise and

nothing more. All who were 10(a)(i)(i) appointees got selected and they are in service. In such a contingency, the norm that should be reasonably

and fairly adopted is that while fixing their seniority, the tenure of services rendered by them after their induction into service under Rule 10(a)(i)(i)

should be counted. The very concept of order of regularisation is the period of temporary service has been converted into a period of regular

service and a deemed fiction is introduced that those persons whose services have been regularised must be treated for all purposes as being in

regular service from the dates from which they were initially appointed. In other words, the period of their temporary services has been converted

into a period of regular service.

13. We must record here that other pronouncements were cited by the learned senior counsel appearing for the concerned respondents, appellants

in the Writ Appeals W.A. Nos. 1214 and 1215 of 1988 on the general proposition that where the initial appointment has been only on ad hoc

basis and not according to the rules and made as a stop gap arrangement officiating service cannot be taken into account for fixing the seniority.

(i) The Direct Recruit Class-II Engineering Officers" Association and others Vs. State of Maharashtra and others, ; (ii) D.N. Agrawal and another

Vs. State of Madhya Pradesh and others, ; (iii) Masood Akhtar Khan and Others Vs. State of Madhya Pradesh and Others, .

The propositions countenanced in the above pronouncements could be viewed for adoption only to cases having similar facts and raising similar

contingencies. Any proposition as such has got to be understood only in the context of the facts and circumstances of the case and not de hors

them, as countenanced in *G.P. Doval and Others Vs. Chief Secretary, Government of U.P. and Others*, . As already noted, here we find a case

where all the personnel got drafted into service only on temporary basis and only to regularise their services from the dates of their joining duty in

Ground Water Wing, the special test was directed by the Government to be conducted by the Tamil Nadu Public Service Commission and all of

them without any exception got selected and at the juncture of fixing the seniority, it is not possible to hang on to the ranking given by the Tamil

Nadu Public Service Commission ignoring the long tenure of service of the concerned personnel, which, as we have already noted, in some cases

run upto fourteen years. If the ranking as given in the list prepared by the Tamil Nadu Public Service Commission has got to be adhered to,

certainly, inequitable, arbitrary, and cruel cutting off of long years of service would take place. That was never the intention and there cannot be a

change of the intention much to the chagrin and prejudice of the petitioners. We do not think that we can shut our eyes to the facts of the case and

apply any other rigid rule as such. For all these reasons, we are obliged to dismiss these Writ Appeals and accordingly we dismiss them. We make

no order as to costs.