

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.926 OF 2004

M.PACHIAPPAN & ORS.

....APPELLANTS

VERSUS

S. MARKANDAM & ORS.

....RESPONDENTS

WITH

SPECIAL LEAVE PETITION (CIVIL) Nos.18811-18820/2004

ORDER

The present appeal concerns the issue with regard to the seniority of the appellants vis-a-vis respondents. The Government of Tamil Nadu published a seniority list of the appellants as also of the respondents. Earlier a provisional seniority list was published, which was circulated by an order dated 19.1.1996. Some of the employees, who were part of the said seniority list, were aggrieved by the seniority positions ascribed to them and filed their objections. The said objections were considered by the official respondent. We are informed that the said objections were rejected by an order dated 10.10.1996 and a final seniority list was published on 22.10.1996. It is, however, pointed out before us that the respondents herein, who filed original application before the Tamil Nadu Administrative Tribunal, challenged only the order dated 19.1.1996 by which the provisional seniority list was

circulated. However, during the pendency of the aforesaid petition before the Tribunal, the respondents/applicants filed an amendment application, in which they sought to challenge the order dated 10.10.1996 whereby the objections filed against the provisional seniority list were rejected. The said prayer for amendment of original application was, however, rejected by the Tribunal on the ground that the said prayer is barred by limitation as one year period had expired from the date of order which was sought to be challenged in the amendment application. This narration of facts makes it crystal clear tht the final seniority list published on 22.10.1996 was not challenged.

The Tamil Nadu Administrative Tribunal decided the issue raised before it and the said decision went in favour of the appellants herein directing for giving higher seniority positions to the appellants.

Being aggrieved by the said order, the respondents herein filed a writ petition in the Madras High Court. By order dated 26.8.2003, the aforesaid writ petition was allowed and the seniority positions of the appellants herein were directed to be shown below the seniority position of the respondents.

Being aggrieved by the said judgment and order of the High Court, present appeal was filed which is listed today for hearing. During the course of hearing, Mr. M.S. Ganesh, learned senior counsel appearing for the

appellants, has pointed out and brought to our notice that the respondents, who had filed the original application before the State Administrative Tribunal, did not challenge the final seniority list which was before the Tribunal and the same held the field and continued to govern the parties as the same was never challenged. The decisions, which were rendered by the State Administrative Tribunal as well as by the High Court pertain only to the provisional seniority list. It was submitted that unless and until the legality and validity of the final seniority list is challenged by the respondents herein, neither the appellants nor the respondents could get proper and appropriate relief. At this stage, the learned counsel appearing for the respondents states that he may be given an opportunity to challenge the validity of the final seniority list so that the entire issue with regard to the seniority position of the appellants as well as of the respondents is settled once and for all.

On going through the records we find that subsequent to the filing of the present appeal by special leave and during the pendency of this appeal, the employees who were shown in the impugned seniority list have still been further promoted on the basis of the seniority list that is available on record.

In the light of the submissions made by the learned counsel appearing for the respondents, we have gone through the record and on consideration thereof, we find that by an order dated 9.2.2004 of this Court, it

was made clear that any subsequent consequential action or promotions, if any, would be subject to the untimate result of this appeal. Subsequent to the said order, the official respondent has issued an order dated 30.5.2008, whereby a list of selected candidates of Firka Surveyors for the year 1993 was published.

We are also informed that the aforesaid list of the selected candidates of Firka surveyors is also based on the final seniority list which remained unchallenged. After the publication of the final seniority list, the provisional seniority list gets substituted by the final list. Since further promotions have also been made, the validity of which is also not challenged, in our opinion nothing survives in this appeal. This civil appeal is accordingly disposed of. In view of the special facts and circumstances of this case and in view of the subsequent development, this order has been passed which shall not be considered as precedence in any other cases.

In terms of the aforesaid order, the application for deletion of respondent no.8 from the array of parties also stands disposed of. Further, the order passed here in the Civil Appeal No.926 of 2004 shall also govern the connected Special Leave Petitions Nos.18811-18820 of 2004 and these special leave petitions are also disposed of accordingly. There shall be no order as to costs.

.....J.
(DR. MUKUNDAKAM SHARMA)

NEW DELHI,
MAY 20, 2009.

.....J.
(DR. B.S. CHAUHAN)

