

**2026 LiveLaw (SC) 457**

**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**  
**AHSANUDDIN AMANULLAH; J., R. MAHADEVAN; J.**  
**MAY 04, 2026**

CIVIL APPEAL NOS.6883-6884 OF 2026 [Arising out of SLP (C) Nos. 14666 – 14667 of 2025]  
THE STATE OF TAMIL NADU AND ANOTHER *versus* R. SASIPRIYA AND ANOTHER

CIVIL APPEAL NOS. 6885-6886 OF 2026 [Arising out of SLP (C) Nos. 14726 – 14727 of 2025]  
T. GNANAVEL *versus* R. SASIPRIYA AND OTHERS

**Service Law – Seniority and Promotion – Merger of Cadres – Interference by Court after long efflux of time –Dispute regarding inter se seniority between employees of the Engineering Department and the merged Town Planning Department of the Coimbatore City Municipal Corporation. G.O. (Ms.) No. 237 dated 26.09.1996 prescribed that Assistant Engineers transferred from the Town Planning Department were to be placed below the existing Assistant Engineers of the Engineering and Water Supply Department - The Government issued G.O. (D) No. 19 dated 18.01.2005 granting notional promotion to the Appellant (from the Engineering Department) with effect from 14.04.1997 and placing him above the redesignated Town Planning Inspectors - Challenged by Respondent No. 1 after a lapse of nearly two decades - The Division Bench of the High Court erred in setting aside G.O. (D) No. 19 long after the retirement of Respondent No. 1 and without noticing that a Three-Member Committee had previously scrutinized the promotions and found no illegality - both parties had already been promoted to higher posts subsequently, leaving no surviving contest - Interventions by third parties at the Supreme Court stage rejected as they were "fence-sitters" agitating stale claims. Impugned judgment set aside and G.O. (D) No. 19 restored. [Paras 16 - 26]**

**Delay and Laches – Public Law Jurisdiction – Seniority Dispute – A court exercising public law jurisdiction does not encourage the agitation of stale claims, particularly in matters of seniority and promotion, where the rights of third parties have crystallized in the interregnum - "Fence-sitters" cannot be permitted to raise a dispute relating to seniority and consequential promotion or challenge the validity of an order after the matter has concluded. [Relied on *Shiba Shankar Mohapatra and others v. State of Orissa and others*, (2010) 12 SCC 471; Para 25]**

*For Petitioner(s): Mr. Sheikh F. Kalia, Adv. Mr. Manoj Kumar Sahu, AOR Ms. S. Deepa, Adv.*

*For Respondent(s): Mr. V. Prabhakar, Sr. Adv. Ms. E. R. Sumathy, AOR Mrs. Jyoti Parasher, Adv. Mr. Saurabh Tiwari, Adv. Mr. Saksham Jain, Adv. Mr. Sheikh F. Kalia, Adv. Mr. Manoj Kumar Sahu, AOR Ms. S. Deepa, Adv. Ms. Purnima Krishna, AOR Mr. M.F.Philip, Adv. Mr. Karamveer Singh Yadav, Adv. Mr. Togin M. Babichen, Adv. Mr. P.K.S Bhagel Yashpal, Sr. Adv. Ms. Priyanka R. Deshpande, AOR*

**J U D G M E N T**

**R. MAHADEVAN, J.**

1. Leave granted.
2. The present two sets of appeals arise from the judgment and Order dated 23.07.2024 passed in Writ Appeal No. 996 of 2015, and the Order dated 04.10.2024

passed in Review Application No. 249 of 2024, by the High Court of Judicature at Madras<sup>1</sup>, whereby the High Court allowed the writ appeal filed by one R. Sasipriya and dismissed the review application filed by T. Gnanavel.

3. The aforesaid Writ Appeal bearing No. 996 of 2015 was directed against the order dated 19.04.2012 passed by the learned Single Judge dismissing W.P. No. 4704 of 2005, which challenged Government Order in G.O. (D) No. 19, Municipal Administration and Water Supply (MC IV) Department, dated 18.01.2005<sup>2</sup>, granting relaxation of the Service Rules in favour of T. Gnanavel, thereby enabling him to be promoted to the post of Assistant Engineer with effect from 14.04.1997 notionally, with monetary benefits from 26.10.1998. A consequential relief was also sought for a direction to the Commissioner, Coimbatore City Municipal Corporation, to implement the 3:1 ratio in the matter of promotion to the post of Assistant Executive Engineer and to promote the writ petitioner (R. Sasipriya) to the said post in the Coimbatore Corporation.

4. By the impugned judgment dated 23.07.2024, the writ appeal was allowed by setting aside the order passed by the learned Single Judge in the writ petition, as well as G.O. (D) No. 19 issued by the Government, and by directing the authorities to scrutinise the files relating to the grant of relaxation of the Service Rules and pass appropriate orders granting promotion and service benefits to all the employees working in the Coimbatore Corporation. Challenging the same, T. Gnanavel preferred Review Application No. 249 of 2024, which came to be dismissed by the impugned Order dated 04.10.2024.

5. Therefore, the aforesaid judgment and orders are under challenge in the present set of appeals, one by the State of Tamil Nadu and the Commissioner, Coimbatore City Municipal Corporation, and the other by T. Gnanavel.

6. For the sake of convenience, the parties are referred to as per their rank in Civil Appeal Nos.6885-6886 of 2026 @ SLP (C) Nos. 14726 – 14727 of 2025, wherein, T. Gnanavel is the appellant, R. Sasipriya is Respondent No. 1, and the State of Tamil Nadu and the Commissioner, Coimbatore City Municipal Corporation – appellants in Civil Appeal Nos.6883-6884 of 2026 @ SLP (C) Nos. 14666 – 14667 of 2025 are Respondent Nos. 2 and 3.

7. The necessary facts leading to the filing of the present sets of appeals are as follows:

7.1. The appellant, T. Gnanavel was appointed as Fitter on 08.12.1988 in the Municipal Administration and Water Supply Department through the Employment Exchange. Respondent No. 1, R. Sasipriya, was temporarily appointed as Town Planning Inspector in the Coimbatore City Municipal Corporation on 02.08.1993, and her services were regularised *vide* Proceedings in K. Dis. No. 94176/94/C23 dated 20.12.1994.

7.2. Pursuant to the order dated 04.03.1991 passed in W.P. No. 2857 of 1991, the Government *vide* G.O. (D) No. 448 Municipal Administration and Water Supply Department, dated 11.08.1995, considered the appeal petition of the appellant and directed the Commissioner, Coimbatore Corporation, to relax the provisions of Rule 3(a) of the Tamil Nadu Municipal Engineering and Water Works Service Rules, 1970, relating to the method of appointment, in favour of the appellant, as a special case so as to enable him to be appointed as Overseer / Draughtsman in Coimbatore Corporation. Accordingly,

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<sup>1</sup> Hereinafter referred to as “the High Court”

<sup>2</sup> Hereinafter referred to as “G.O. (D) No. 19”

*vide* proceedings in R.C. No. 84714/95/G2 dated 18.10.1995, the Coimbatore Corporation promoted the appellant as Overseer against the vacancy caused consequent upon the promotion of one Lakshmanan. The appellant was promoted from the post of Fitter to Overseer on 01.12.1995.

7.3. Thereafter, the Government *vide* G.O. (Ms.) No. 237 Municipal Administration and Water Supply Department, dated 26.09.1996, framed new service rules for Corporations other than Chennai Corporation whereby the Engineering Department and the Town Planning Department were merged. *Vide* proceedings dated 17.05.1999, the Government clarified with respect to G.O. No. 237 dated 26.09.1996 that the new Corporation Service Rules, 1996 need not be applied to existing employees for the first promotion. It was further clarified that, before applying 3:1 ratio under the new rules, existing Draughtsmen who were fully qualified to hold the post of Junior Engineer should first be promoted against vacancies arising immediately after issuance of the new rules, and thereafter the ratio of 3:1 should be strictly followed.

7.4. On 11.04.1997, Respondent No. 1 was redesignated as Junior Engineer, after merger of the services of Junior Engineers and Town Planning Inspectors, and she joined duty on 14.04.1997.

7.5. The appellant was promoted as Junior Engineer *vide* proceedings dated 09.08.1999. Thereafter, *vide* proceedings in R.C.No. 20855/99/MC23 dated 02.12.1999, he was redesignated as Assistant Engineer on the basis of his B.E. degree with effect from 12.08.1999 after getting clarification under proceedings dated 17.05.1999.

7.6. In the meanwhile, the appellant filed W.P. No. 14813 of 2001, W.P. No. 18493 of 2001 and W.P. No. 21461 of 2003, which were disposed of on 10.09.2001, 08.10.2001, and 23.09.2003 respectively. Pursuant thereto, the Coimbatore Corporation forwarded a proposal to the Government on the appellant's representation seeking appointment as Assistant Engineer. Consequently, G.O. (D) No. 19 came to be issued promoting the appellant as Assistant Engineer with effect from 14.04.1997 notionally, with monetary benefits from the date of the resolution of the Appointment Committee i.e., 26.10.1998, and placing him above the Town Planning Inspectors who were redesignated as Junior Engineers / Assistant Engineers on 11.04.1997.

7.7. Challenging the said G.O. (D) No.19, Respondent No. 1 filed W.P. No. 4704 of 2005 seeking to quash the same and for a direction to implement the 3:1 ratio in the matter of promotion to the post of Assistant Executive Engineer. During the pendency of the writ petition, the Coimbatore Corporation regularised the services of the appellant as Assistant Engineer. On 04.07.2007, the Corporation published the final seniority list, wherein the names of the appellant and Respondent No. 1 were included.

7.8. Thereafter, G.O. No. 281 dated 26.07.2011 came to be issued promoting the appellant and two others to the post of Assistant Executive Engineer by relaxing Rule 4 of the Tamil Nadu Municipal Corporation Service Rules, 1996 insofar as one year's experience was concerned. Accordingly, all three were promoted as Assistant Executive Engineer with retrospective effect from 07.11.2007.

7.9. By order dated 19.04.2012, W.P. No. 4704 of 2005 was dismissed. Challenging the same, Respondent No. 1 preferred W.A. No. 996 of 2015. Thereafter, the appellant, Respondent No. 1 and one Parvathi were promoted as Executive Engineers *vide* G.O.(2P) No. 4, Municipal Administration and Water Supply (C.C) IV) Department dated 27.01.2016 by relaxing Rule 4 of the Tamil Nadu Municipal Corporation Service Rules, 1996. After hearing the parties, the Division Bench by judgment dated 23.07.2024, allowed the writ

appeal by setting aside the order dated 19.04.2012 passed in W.P. No. 4704 of 2005 and G.O. (D) No. 19 issued by the Government. Aggrieved thereby, the appellant filed Review Application No. 249 of 2024 seeking review of the judgment passed in W.A. No. 996 of 2015 and restoration of G.O. (D) No. 19. However, the said Review Application came to be dismissed. Hence, the present sets of appeals before this court.

**8.** Learned senior counsel for the appellant in Civil Appeal Nos.6885-6886 of 2026 @ SLP (C) Nos. 14726–14727 of 2025 submitted that the appellant possessed a Diploma in Civil Engineering and was initially appointed as Fitter in the year 1988. He had made a representation seeking consideration for appointment to the post of Overseer/Draughtsman by relaxing the rule relating to the method of appointment. Pursuant to the order of the High Court in W.P. No. 2857 of 1991, his representation was considered and he was promoted to the post of Overseer on 01.12.1995.

**8.1.** It was submitted that thereafter, G.O. Ms. No. 237 dated 26.09.1996 came to be issued, whereby the Engineering Department was merged with the Town Planning Department of the Corporation, and the same was never challenged by Respondent No. 1. Subsequently, the appellant who had acquired a B.E. degree (Civil) in the year 1996, had been discharging the duties of Junior Engineer and continued to work in the said capacity without formal promotion or attendant benefits. He, therefore, approached the High Court and obtained a direction to the Government to consider his case for promotion to the post of Assistant Engineer, pursuant to which, he was promoted as Assistant Engineer with effect from 14.04.1997 notionally, with monetary benefits. In such circumstances, Respondent No. 1 initiated writ proceedings challenging the said promotion, and her claim came to be erroneously accepted by the Division Bench through the impugned judgment.

**8.2.** It was further submitted that under the Tamil Nadu Municipal Engineering Water Supply Service Rules, 1970, both the posts of Draughtsman and Overseer are feeder categories to the post of Junior Engineer. The appellant was appointed as Overseer on 01.12.1995. It was the policy decision of the Government that when Town Planning Inspectors drawing the pay scale of Rs.1350-2200, and not belonging to the feeder category for the post of Junior Engineer / Assistant Engineer were granted the benefit of elevation as Junior Engineer / Assistant Engineer consequent upon merger with the Engineering Department, the Overseers / Draughtsmen, who were in the same pay scale and constituted feeder categories, should also be extended the same benefit.

**8.3.** The learned senior counsel further submitted that the Government, after careful consideration of the appellant's representation and pursuant to the orders passed by the High Court in W.P. Nos. 18493 of 2001 and 21461 of 2003, considered the proposal of the Commissioner, Coimbatore City Municipal Corporation based on the recommendations of the Commissioner of Municipal Administration, and issued G.O. (D) No. 19, directing that the appellant be promoted as Assistant Engineer with effect from 14.04.1997 i.e. the date on which the Town Planning Department was merged with the Engineering Department, and be placed above the Town Planning Inspectors, who were re-designated as Junior Engineers / Assistant Engineers.

**8.4.** It was pointed out that as on the date of merger i.e., on 26.09.1996, the appellant being part of the Engineering Department, was rightly placed above Respondent No. 1, who belonged to the Town Planning Department and was only redesignated upon merger. According to learned senior counsel, such placement was in consonance with the Rules and the instructions contained in G.O. (Ms.) No. 237 dated 26.09.1996. Hence, G.O. (D) No. 19 was perfectly valid in law.

**8.5.** It was also submitted that Annexure I to G.O. No. 237 dated 26.09.1996 specifically provided that the Corporation New Service Rules, 1996 need not be applied to existing employees for the first promotion to which they became entitled after issuance of the Rules. It was further clarified therein that Draughtmen holding Diploma qualifications, were being promoted as Junior Engineers under the then existing Rules, and therefore the ratio of 3:1 namely three degree-holders and one diploma holder fixed under the new Rules, need not be immediately applied. As a special measure, existing Draughtsmen fully qualified for the post of Junior Engineer were first to be promoted against the next available vacancies, whereafter the ratio of 3:1 would be applied.

**8.6.** Learned senior counsel further submitted that the promotion granted to the appellant was opposed by certain individuals through writ petitions and contempt proceedings. The learned Single Judge ultimately decided the matter in favour of the appellant on the basis of the report of a Three-Member Committee constituted for reviewing and clarifying various doubts raised by the High Court with reference to Government Letter No. 23418/MC4/2018 dated 12.04.2019. The relevant extract of the report reads thus:

*“Further, the benefit of relaxation has been extended uniformly to the Petitioners also in the interests of public administration of Coimbatore Corporation. Hence, it is observed that there were no irregularity, malpractice, favouritism, nepotism or corrupt activities or influences identified in extending the benefits of relaxation of rules.”*

**8.7.** It was further submitted that under the Tamil Nadu Municipal Town Planning Service Rules, 1970, the qualification prescribed for the post of Town Planning Inspector was only a Diploma in Civil Engineering as prescribed in the Annexure to Rule 8 thereof. Respondent No. 1 was appointed as Town Planning Inspector in the Coimbatore City Municipal Corporation on 04.08.1993 on the basis of such Diploma qualification. She had allegedly suppressed the fact of possessing a B.E. degree at the time of such appointment and, therefore, could not subsequently claim the benefit of the B.E. qualification either from the year 1987 or from the year 1993, when she was appointed as Town Planning Inspector.

**8.8.** It was also contended that once the appellant was promoted as Junior Engineer, he was re-designated as Assistant Engineer upon acquiring the B.E. qualification, which was permissible under the applicable Rules not only in the Coimbatore City Municipal Corporation, but throughout the State of Tamil Nadu. Therefore, the subsequent promotions of both the appellant and Respondent No. 1 to the posts of Assistant Executive Engineer and Executive Engineer were in accordance with the Rules, and no discrimination whatsoever had been practised by the Government.

**8.9.** It was lastly submitted that though the appellant had been directed to look after the duties of Junior Engineer on 05.11.1997, he was not formally promoted when the merger took place. He was therefore constrained to approach the High Court by filing several writ petitions. Only thereafter, and in compliance with the orders of the High Court, G.O. (D) No. 19 came to be issued promoting him as Assistant Engineer with effect from 14.04.1997 notionally and placing him above the Town Planning Inspectors redesignated as Junior Engineers / Assistant Engineers by proceedings dated 11.04.1997.

**8.10.** Accordingly, the learned senior counsel submitted that the appellant had been granted promotion strictly in terms of the orders passed by the High Court. The Division Bench, therefore, committed a grave error in allowing the writ appeal filed by Respondent

No. 1 and in dismissing the review application preferred by the appellant. The impugned judgment and orders, it was submitted, are liable to be set aside by this Court.

**9.** Learned counsel for the appellants in Civil Appeal Nos.6883-6884/2026 @ SLP(C) Nos.14666–14667/2025, who are Respondent Nos. 2 and 3 in Civil Appeal Nos.6885-6886/2026 @ SLP(C) Nos.14726–14727/2025, namely, State of Tamil Nadu and the Coimbatore City Municipal Corporation, submitted that the High Court erred in recording a finding that there were irregularities in the appointment and promotion of the appellant. It was contended that pursuant to several orders passed by the High Court in different writ petitions, G.O.(D) No. 19 came to be issued promoting the appellant to the post of Assistant Engineer, after taking into consideration the fact that he was holding the post of Overseer, had acquired a B.E. Degree, and had also been discharging the duties of Assistant Engineer from 05.11.1997 on administrative grounds.

**9.1.** It was further submitted that the appellant had been appointed as Overseer *vide* G.O.(D) No. 448 dated 11.08.1995 pursuant to the order dated 04.03.1991 passed by the High Court in W.P. No. 2857 of 1991. Owing to administrative reasons, the appellant could not derive the consequential benefit at the relevant time. Subsequently, G.O. (D) No. 19 came to be issued granting him notional promotion with attendant benefits, pursuant to the orders of the High Court dated 08.10.2001 passed in W.P. No. 18493 of 2001 and dated 23.09.2003 in W.P. No. 21461 of 2003, and after considering the specific instructions contained in G.O. Ms. 237 dated 26.09.1996. It was emphasised that the scheme of merger and the instructions issued thereunder were never challenged by any person, including the parties to the present proceedings. Therefore, the same operated uniformly across the cadre, and no special concession had been extended exclusively to the appellant.

**9.2.** Learned counsel also submitted that pursuant to directions issued by the learned Single Judge in contempt proceedings as well as in writ petitions filed by a batch of individuals challenging the relaxations granted in the matter of promotions of the appellant, a Three-Member Committee was constituted. The Committee, upon examination, concluded that there were no infractions or irregularities in the promotions granted to the appellant. Based on the said report, the High Court closed the contempt proceedings *vide* order dated 22.01.2020.

**9.3.** It was ultimately submitted that the promotions granted to Respondent No. 1 and to the appellant between the years 1997 and 2007 had been issued prior to finalisation of inter se seniority. According to learned counsel, the seniority position was restored to its proper line only in the year 2007, after a lapse of nearly ten years. It was further contended that the correctness of the inter se seniority was again examined in Contempt Petition Nos. 675, 762 and 499 of 2019, and the learned Single Judge accepted the validity of the promotions granted to the appellant.

**9.4.** However, the Division Bench, by the impugned judgment, cast suspicion on the relaxations and decided the matter in favour of Respondent No. 1 and against the appellant. According to learned counsel, if the relaxations and promotions were found valid in the year 2019, they could not suddenly be held invalid in the year 2024 in relation to the appellant. It was submitted that all relaxations had already been judicially examined and upheld by the High Court, and the Government had merely complied with the orders passed by the High Court. Hence, there was neither illegality nor irregularity in granting promotions to the appellant.

**9.5.** With these submissions, learned counsel prayed that the appeals preferred by the State and the Corporation be allowed by setting aside the impugned judgement and orders passed by the Division Bench of the High Court.

**10.** Learned senior counsel appearing for the impleading applicant, K. Saravanakumar submitted that the said applicant was appointed on 21.10.1992 as a Foreman in the Coimbatore City Municipal Corporation and was subsequently appointed as Workshop Junior Engineer *vide* G.O. Ms. No. 190 dated 04.10.1995. It was contended that the appellant was illegally appointed as Junior Engineer on 12.08.1999 was thereafter redesignated as Assistant Engineer under impugned G.O. (D) No. 19 as a special case, by relaxing the Rules in complete violation of the applicable Service Rules and Fundamental Rules.

**10.1.** It was submitted that as on 01.10.1996, K. Saravanakumar was holding the post of Junior Engineer, whereas the appellant was working as Overseer. Therefore, the applicant was senior both in terms of post and pay scale, and consequently the appellant could not be placed above him or claim seniority in the cadre of Junior Engineer.

**10.2.** It was further submitted that the appellant was ranked at Serial No. 4 in the seniority list for the post of Technical Assistant published on 28.07.1998. The eligibility requirement for promotion from Technical Assistant to Junior Engineer was five years of service, which, according to the learned senior counsel, had not been fulfilled by him.

**10.3.** It was also contended that the names of the impleading applicant and Respondent No. 1 were reflected in the inter se seniority list dated 08.06.2001 prepared in accordance with the merger policy and in the ratio of 3:1 with reference to the crucial date of 01.10.1996. Hence, the contention that the impleading applicant was junior to Respondent No. 1 and disentitled to claim the benefit flowing from the impugned judgment in W.A. No. 996 of 2015 was stated to be unsustainable in law.

**10.4.** The learned senior counsel further submitted that the post of Assistant Engineer could be filled only by direct recruitment, and therefore the appellant could not have been redesignated as Assistant Engineer merely on the basis of having acquired a part-time B.E. degree.

**10.5.** It was pointed out that the appellant's request for application of the ratio of 3:1 by treating him as Assistant Engineer (Works) and applying the same *visà-vis* Assistant Engineer (Planning) was wholly imaginary, unworkable, and contrary to law as the said ratio was applicable only to Town Planning Inspectors transferred to the Engineering Department.

**10.6.** It was next contended that the Government had misused its power of relaxation by issuing G.O. (D) No. 19.

**10.7.** It was submitted that four out of five charge memoranda issued against the impleading applicant had been dropped as not proved, while the fifth order imposing punishment had been challenged by him before the High Court in W.A. No. 2434 of 2024.

**10.8.** It was also submitted that the second Committee Report stood vitiated by malice in law and perversity, since its findings dealt with the relaxations granted under G.O. (D) No. 19 and not G.O. Ms. No. 448 which formed the subject matter of the batch of writ petitions and contempt petitions.

**10.9.** Learned senior counsel further submitted that by order dated 14.08.2007, the name of the impleading applicant was deleted from the combined seniority list and placed in a

separate seniority list for the post of Junior Engineer (Mechanical). Aggrieved thereby, he preferred an appeal before the Commissioner of Municipal Administration, Chennai, on 12.05.2008, which came to be allowed *vide* Roc No. 4298/2008/F4 dated 29.05.2008. Consequent thereto, the Commissioner, Coimbatore Corporation, was directed to promote the applicant as Assistant Executive Engineer (Main Office), and the same was confirmed *vide* G.O. (Ms.) No. 526 dated 16.12.2008. It was also pointed out that the challenge to deletion of his name from the seniority list had failed in W.P. No. 27061 of 2008 by order dated 11.07.2017 which was affirmed in W.A. No. 1618 of 2017 dated 27.04.2023. Therefore, according to learned senior counsel, the issue stood concluded and was hit by the principles of constructive *res judicata*.

**10.10.** Accordingly, the learned senior counsel prayed that the impleading applicant be granted notional promotion to the post of Assistant Executive Engineer for the year 2007 in place of the appellants.

**11.** In reply to the above submissions, the learned senior counsel for the appellants submitted that K. Saravanakumar was merely a fence-sitter and had approached this Court directly without first pursuing any substantive proceedings before the High Court.

**11.1.** It was further submitted that the impleading applicant had misled this Court regarding his service status, since Rule 3 of the relevant Service Rules clearly provided that a person could be appointed to Class I, Category 1 (Assistant Executive Engineer) only by promotion from Class II, Category 1 and Class II, Category 2. Class II, Category 5, namely Workshop Junior Engineer, Grade II, to which K. Saravanakumar belonged, had no promotional avenue whatsoever.

**11.2.** It was submitted that *vide* G. O. Ms. No. 140 dated 27.05.1997, it had already been clarified that the impleading applicant could not claim any seniority in the Engineering and Water Supply Departments of the Corporation and would continue in the same post till superannuation.

**11.3.** It was further contended that despite such clarification, the name of the impleading applicant had been erroneously included in the seniority list issued by the Commissioner, Coimbatore Corporation, *vide* Roc. No 8633/98 (MC 23)/ MC2 dated 08.06.2001 at Serial No. 22, which error was later rectified by deleting his name *vide* Proceedings R.C. No. 177768/06/M.C.1 dated 04.07.2007. In the said seniority list, the appellants was shown at Serial No. 1 and Respondent No. 1 at Serial No. 2.

**11.4.** Learned senior counsel also pointed out that irrespective of whether the promotions granted to the impleading applicant were right or wrong, the communication bearing R.C. No. 5862/2022/M.C.1 dated 16.11.2022 reflected the names of eligible Assistant Executive Engineers for promotion to Executive Engineer. However, at that stage, disciplinary charges had been framed against the impleading applicant under Section 8(2) of the Coimbatore Corporation (Disciplinary and Appeals) Rules, 1986. Owing to the pendency of charges and the punishment imposed, coupled with the fact that he was otherwise not entitled to promotion, the Municipal Administration and Water Supply Department, *vide* G.O. (2P) No. 21 dated 11.04.2023 did not consider his case for promotion to the post of Executive Engineer.

**11.5.** Accordingly, learned senior counsel prayed for dismissal of the impleading application filed by K. Saravanakumar.

**12.** Learned senior counsel appearing for the impleading applicant, S. Velumayil, submitted that the said applicant was initially appointed as Water Meter Reader in the

Coimbatore Municipality on 13.08.1973 and was subsequently promoted as Water Worker Overseer. Thereafter, he was promoted to the post of Water Works Junior Engineer, Grade II, Class II, Category 2, *vide* proceedings of the Commissioner, Coimbatore Corporation in R.C. No. 82703/88/05 dated 24.12.1990, pursuant to Appointment Committee Resolution No. 51 dated 17.12.1990 in accordance with the Tamil Nadu Municipal Engineering Service Rules, 1970. According to learned senior counsel, under the said Rules, his next promotional post was Assistant Executive Engineer.

**12.1.** It was submitted that the feeder categories for promotion to Assistant Executive Engineer were Junior Engineer (Public Works) and Junior Engineer (Water Works), being Category 1 and Category 2 of Class II, which together constituted the Junior Engineer (Works) category.

**12.2.** Learned senior counsel further submitted that S. Velumayil was senior to K. Saravanakumar who belonged to Class II, Category 5, namely Workshop Junior Engineer, Grade II, which was not a feeder category for promotion to Assistant Executive Engineer under Rule 3 of the Tamil Nadu Municipal Engineering Subordinate Service Rules, 1970. It was further submitted that this position had been expressly clarified by the Government of Tamil Nadu *vide* G.O.Ms.No.140 dated 27.05.1997.

**12.3.** Attention was drawn to the fact that the name of K. Saravanakumar had been erroneously included in the seniority list dated 08.06.2001 issued by the Commissioner, Coimbatore Corporation, which was later rectified *vide* proceedings dated 04.07.2007 deleting his name therefrom. In the revised seniority list, the appellant was placed at Serial No. 1, Respondent No. 1 at Serial No. 2, and S. Velumayil at Serial No. 12.

**12.4.** It was also pointed out that K. Saravanakumar had submitted a representation seeking redesignation of his post as Assistant Engineer (Special) and consequential promotion as Assistant Executive Engineer, which representation was rejected by the Commissioner, Coimbatore Corporation *vide* proceedings No. 177769/06/MC1 dated 14.08.2007.

**12.5.** Learned senior counsel accordingly prayed that the impleading applicant S. Velumayil be considered for promotion, that K. Saravanakumar be excluded from any claim of seniority over him, and that all consequential monetary benefits due from the year 2008 be granted.

**13.** Despite service of notice, there was no representation on behalf of Respondent No. 1 either in person or through counsel.

**14.** We have heard learned counsel appearing for the parties and perused the material available on record.

**15.** The undisputed facts are that the appellant was initially appointed as Fitter in the Municipal Administration and Water Supply Department in the year 1988 and was thereafter promoted as Overseer on 01.12.1995, pursuant to the order dated 04.03.1991 passed by the High Court in Writ Petition No. 2857 of 1991. The appellant completed his B.E. degree (Civil) in November, 1996.

**16.** Thereafter, G.O. (Ms.) No. 237 Municipal Administration and Water Supply (Election) Department, dated 26.09.1996 came to be issued, framing the Tamil Nadu Municipal Corporations Service Rules, 1996 which were made applicable to all Corporations, including Coimbatore City Municipal Corporation, except the Corporation of Chennai. The relevant portion of the Government Order reads thus:

*“6. The Commissioners of all the Corporations (except the Corporation of Chennai) are requested to implement the new Corporation Service Rules issued in this order with effect from the 1st October 1996. While implementing the new service Rules, in the Corporations, all the Commissioners are requested to follow strictly the instructions contained in Annexure - I to this order...”*

**16.1.** Annexure – I to the said Government Order contained instructions to be followed by the Commissioners of all Corporations except Chennai. The relevant portions thereof are extracted below:

*“ ...*

*Since the scale of pay of the Town Planning Inspectors is less than the scale of pay of the Junior Engineers, while fixing the inter-se-seniority, it is not fair to take the date of first appointment, the total services etc. of the individuals. Further, these Town Planning Inspectors who are Engineering Graduates will be designated as Assistant Engineers and these who are Diploma holders as Junior Engineers.*

*Therefore, one list of names of Assistant Engineers of the Engineering and Water Supply Department may be prepared and the names of Assistant Engineers transferred from the Town Planning Department of the Corporation may be placed below the names of Assistant Engineers of the Engineering and Water Supply Department. The names of Assistant Engineers of the Town Planning Department may be placed in the order of their seniority in the past of Town Planning Inspectors. Another list of names of Junior Engineers of the Engineering and Water Supply Department may be prepared and the name of Junior Engineers transferred from the Town Planning Department may be placed below the names of the Junior Engineers of the Engineering and Water Supply Department in the order of their seniority in the post of Town Planning Inspectors. In future, the initial appointment itself shall be made at the ratio of 3:1 ie., 3 Engineering Graduate Assistant Engineers and one Diploma holder Junior Engineer, hence the question of fixing the seniority at the ratio of 3:1 does not arise. But it becomes necessary to follow the ratio of 3:1 now, while fixing the inter-se-seniority between the Assistant Engineers and Junior Engineers along with the Town Planning Inspectors who are also being transferred to the Engineering and Water Supply Department...”*

**(4) PROMOTION OF DRAUGHTSMEN AS JUNIOR ENGINEERS BEFORE THE IMPLEMENTATION OF THE NEW CORPORATION SERVICE RULES: -**

*At present, the Draughtsmen who are Diploma holders are being promoted as Junior Engineers under the existing Rules in force. There will be qualified Draughtsmen waiting for promotion as Junior Engineers in the next vacancies. Since the ratio of 3:1 (ie., 3 Graduate Assistant Engineers by direct recruitment and one Junior Engineer by promotion) has been fixed in the new Service Rules, it will take time form these Draughtsmen to be promoted as Junior Engineers. Therefore, as a special case, before following the ratio of 3:1 under the new Service Rules, the Draughtsmen who are qualified for the post of Junior Engineers and are waiting for promotion in the next vacancies, may be promoted first in such vacancies and taken the ratio of 3:1 may be followed strictly for recruitment to the future vacancies. This will avoid hardship among the draughtsmen, since similar diploma holders holding the posts of Town Planning Inspectors and who are in the scale of pay of Draughtsmen ie., Rs.1350-2200, are being designated as Junior Engineers and their services are being merged with the Engineering and Water Supply Department under the new Service Rules.”*

**17.** The aforesaid instructions make it clear that Assistant Engineers transferred from the Town Planning Department were to be placed below the Assistant Engineers of the Engineering and Water Supply Department. There is no dispute that the appellant belonged to the Engineering Department, whereas Respondent No. 1 belonged to the Town Planning Department. Notably, the aforesaid Government Order was never challenged by any one including the parties to the present proceedings.

**18.** It is further undisputed that the appellant had filed Writ Petition No. 18493 of 2001 seeking a writ of mandamus to consider his representation dated 04.10.2000, whereby he requested that, on the basis of G.O. Ms. No. 237 dated 26.09.1996, he be upgraded to the post of Junior Engineer/Assistant Engineer with effect from 01.10.1996, and that the pay scale of Assistant Engineer be fixed with effect from 05.11.1997, i.e., the date from which he commenced discharging the duties of Junior Engineer. The appellant thereafter joined as Junior Engineer on 12.08.1999 and stood redesignated as Assistant Engineer on 02.12.1999 with effect from 12.08.1999.

**19.** The appellant subsequently filed Writ Petition No. 21461 of 2003 seeking direction to the Government to pass orders on the proposal forwarded by the Commissioner of Municipal Administration favourably considering his representation dated 04.10.2000. By order dated 23.09.2003, the High Court directed the Government to pass appropriate orders on the said proposal. Pursuant thereto, G.O. (D) No. 19 Municipal Administration and Water Supply (MC IV) Department dated 18.01.2005 came to be passed. A perusal of the same indicates that on the basis of G.O. Ms. No. 237 dated 26.09.1996, orders were passed promoting the appellant T. Gnanavel as Assistant Engineer with effect from 14.04.1997 notionally, with monetary benefits from the date of the Appointment Committee Resolution dated 26.10.1998, and placing him above the Town Planning Inspectors who had been redesignated as Junior Engineers / Assistant Engineers by proceedings dated 11.04.1997. It was also recorded therein that the appellant would be eligible for further promotion as Assistant Executive Engineer.

**20.** It is this G.O. (D) No.19 dated 18.01.2005 which came to be challenged by Respondent No. 1 in Writ Petition No. 4704 of 2005 on the ground that she had been placed below the appellant in seniority, and from that point the present *lis* has arisen. By order dated 19.04.2012, the learned Single Judge rightly dismissed the said writ petition, placing reliance on the policy decision of the Government as reflected in G.O. Ms. No. 237 dated 26.09.1996.

**21.** An important turn of events thereafter was that, by proceedings dated 07.11.2007, both the appellant and Respondent No. 1 were promoted as Assistant Executive Engineer, and from that point onwards, there was no surviving contest between them on the aspect of seniority. It is also to be noted that once again, both were promoted as Executive Engineers on 27.01.2016, and Respondent No. 1 retired from service on 30.09.2023.

**22.** In the judgment under appeal, the Division Bench appears to have been oblivious to these material facts. Indeed, there is no meaningful discussion on merits, and the Court seems to have been swayed by certain assertions that the appellant's promotion was granted in violation of the Service Rules, which stand belied by the materials placed on record.

**23.** The further direction of the Division Bench requiring scrutiny of the files is equally unsustainable, in view of the fact that in Contempt Petition Nos. 499, 675, 762 of 2019, by order dated 22.01.2020, the High Court had already recorded that pursuant to earlier orders passed in writ petitions filed by colleagues of the appellant, the Government had constituted a Committee which, after detailed scrutiny of the promotions granted to several persons including the appellant, the Rules in force, and the surrounding circumstances, found no illegality or discrepancy in the promotions granted. Recording the said findings, the contempt petitions were closed.

**24.** This important subsequent development was also not noticed by the Division Bench. Moreover, long after the retirement of Respondent No. 1, when nothing substantial

survived for adjudication, the Division Bench thought it fit to interfere with a Government Order issued nearly two decades earlier, which would have the chilling effect of unsettling all promotions made till date in the respondent corporation.

25. As far as the impleading applicant, K. Saravanakumar is concerned, he was not a party to any of the proceedings before the High Court, nor did he choose to intervene or seek impleadment in the *lis* between the appellant and Respondent No. 1. It is only before this Court that he sought impleadment. In paragraphs 31 to 33 of his affidavit, he himself states that disciplinary proceedings are pending against him, thereby showing that he is, in any event, not presently entitled to promotion.

25.1. Notwithstanding the pendency of such proceedings and the intra-court appeal arising therefrom, he claims notional promotion to the post of Assistant Executive Engineer on par with the appellant, once the appellant vacates the post pursuant to the impugned judgment. Such a claim discloses no enforceable legal right and demonstrates that he is a complete outsider to the present proceedings. He has neither established, nor even *prima facie* shown, that he is senior to the appellant. Had that been so, he would not have remained in the wings and sought impleadment only at the final stage.

25.2. This Court finds him to be a fence-sitter. It is settled law that fence-sitters cannot be permitted to raise a dispute relating to seniority and consequential promotion or challenge the validity of an order after the matter has concluded. No party can claim relief as a matter of right, and one of the well-recognised grounds for refusing relief is that the person approaching the Court is guilty of delay and laches. A court exercising public law jurisdiction does not encourage the agitation of stale claims, particularly in matters of seniority and promotion, where the rights of third parties have crystallised in the interregnum [**See *Shiba Shankar Mohapatra and others v. State of Orissa and others, (2010) 12 SCC 471***]. Therefore, no relief can be granted to the impleading applicant.

26. As far as the impleading applicant, S. Velumayil is concerned, in his application, he himself admitted that in the revised seniority list, he is junior to the appellant and Respondent No. 1, and senior to K. Saravanakumar. Moreover, he raised objections to the consideration of the claim of the impleading applicant K. Saravanakumar. Since this Court has rejected the claim of K. Saravanakumar on the ground that he is a fence-sitter, the present impleading applicant is also not entitled to any relief in these appeals.

27. Accordingly, the order dated 04.10.2024 in Review Application No. 249 of 2024 and the Judgement dated 23.07.2024 in Writ Appeal No. 996 of 2015 passed by the High Court are set aside and the Government Order in G.O. (D) No. 19 Municipal Administration and Water Supply (MC IV) Department, dated 18.01.2005, stands restored. Consequently, the subsequent promotions granted to the appellant to the posts of Assistant Executive Engineer and Executive Engineer are held to be valid. The appellant shall also be entitled to further promotion from the date on which he became eligible thereof.

28. The Civil Appeals stand allowed on the aforesaid terms. Accordingly, the impleading applications stand disposed of. There shall be no order to costs.

29. Pending application(s), if any, shall stand disposed.