

P. Thangaraj and ors. Vs. the Commissioner, Madurai City Municipal Corporation and ors.

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Court : Chennai

Decided On : Aug-18-1996

Reported in : (1996)2MLJ416

Appellant : P. Thangaraj and ors.

Respondent : The Commissioner, Madurai City Municipal Corporation and ors.

Judgement :

ORDER

Shivaraj Patil, J.

1. The petitioners have sought for a writ of certiorarified mandamus, calling for the records connected with the orders of the Commissioner, Madurai City Municipal Corporation, issued in E-1/970/66/77, dated 26.4.1978, the order of the appeal Committee of the Madurai City Corporation in Resolution No. 30, dated 3.6.1982, and the order of confirmation made by the Government in its letter No. 31817/VII/87-21, dated 1.4.1991, and to quash the same, and also to direct the respondents to prepare a fresh panel of Junior Assistants fit for promotion for posts of Assistants for the year 1982 by placing the petitioners above the names of respondents 4 to 20.

2. The case of the petitioners, as pleaded by them, is that the petitioners were initially working as Junior Assistants in the Corporation of Madurai; the next promotional post is the post of Assistant; in order to be eligible for promotion to the post of Assistant, one should pass departmental account test; they are governed by the Madurai City Municipal Corporation Service Rules, 1975; for the purpose of promotion to the post of Assistants and other higher posts, a promotion panel would be prepared every year by the Commissioner as per Rule 27.

3. A panel of 17 Junior Assistants pursuant to the resolution dated 18.4.1977 was prepared during 1977; 8 persons were promoted out of that panel during 1977; subsequently 19 persons were added in the panel for 1977 by a resolution dated 7.1.1978; no crucial date for the preparation of panel had been prescribed under the Rules; the Corporation was following the Government Orders. Accordingly the crucial date for preparation of the panel was first April and the panel prepared was valid for one year which would lapse on the expiry of one year; there was no retirement during the year 1978, nor there was any additional post, nor any new post in the category of Assistants were created. Hence no panel had been prepared for the year 1978.

4. However, strangely a panel was prepared by the Commissioner consisting of 22 persons as per the resolution of the appointment committee dated 26.4.1978; this list was revised by the resolution dated 17.3.1979 increasing the number to 23. In the revised list the names of respondents 4 to 20 were included. It is stated that respondents 4 to 20 are juniors to the petitioners; the petitioners 7 and 9 viz., Gurusamy and Syed Mohammed Ibrahim passed the departmental test during 1978; petitioners 5, 6 and 11 passed the test during November, 1978; the petitioners 1, 2, 4 and 10 passed departmental test during May, 1979; petitioner No. 8 passed the test during November, 1979; and the petitioner No. 3 passed the departmental test during

July, 1980.

5. It is the further case of the petitioners that no regular vacancy in the post of Assistant arose during 1978, 1979, 1980 and 1981. Thus none of the persons who were included in the panel for the year 1978 could be promoted as there were no vacancies. The panel prepared in 1978 expired in April, 1979. Respondents 4 to 20 could not be appointed on regular basis; they were promoted to leave vacancies for a period of 15 days to one month on temporary basis; their appointments as Assistants were purely temporary as can be seen from the orders of appointments themselves. All the petitioners became eligible for promotion to the post of Assistant from May, 1978 to July, 1980. Regular vacancies arose only during 1982 and thereafter, and hence when the vacancies arose in 1982 a fresh panel should have been prepared; in that event all the petitioners should have found a place in the panel as they were seniors to the respondents 4 to 20; instead the Corporation adopted a novel method of promoting persons whose names were included in the panel of 1978 which had ceased its validity.

6. The petitioners preferred an appeal to the appeal Committee of the Corporation in September, 1979; however the appeal committee rejected the appeal by an order dated 3.6.1982; the petitioners preferred a further appeal to the Secretary, Rural Development and Local Administration on 13.8.1982 as there was no response they made representation to the Chief Minister's Cell on 25.7.1987 requesting for permission to move the court. The Government, however rejected the appeal preferred by the petitioners by order dated 1.4.1991 without considering the grievances of the petitioners. The said order was one line order stating that they were not qualified for inclusion in the panel for 1978. During the pendency of the appeal the petitioners Sulochana, Devaraj and R. Malaisamy were included in the panel for 1986 and the other petitioners were included in the panel for 1988. According to the petitioners, when vacancies arose in the year 1982 a fresh panel should have been prepared by including the names of the petitioners above the respondents 4 to 20; the promotions of the respondents 4 to 20 on temporary basis in leave vacancies did not confer probationary rights on them; the respondents 4 to 20 cannot have seniority above the petitioners; as such the impugned orders are liable to be set aside. Hence the writ petition is filed for the relief as stated above.

7. The respondents 1 and 2 have filed a counter affidavit opposing the claims of the petitioners. It is submitted that the panel of candidates for promotion was validly prepared. The petitioners who were seniors were not included in the panel for promotion to the category of Assistants from the Junior Assistants as they were not qualified at all material points of time; the petitioners have sought to place their own interpretation to Rule 27 of the Rules. In terms of Rule 27 of the Rules issued in G.O.P. No. 1460, Rural Development and Local Administration Department, dated 27.8.1975, the first respondent had to furnish the names of all eligible candidates in the order of their seniority; he had included 17 persons in the panel of eligible Junior Assistants for being promoted to the cadre of Assistants. There was no illegality or impropriety in the preparation of the panel of in the non-inclusion of the petitioners.

8. One Smt. Saroja had preferred an appeal before the Appeals Committee, which by resolution No. 35, dated 7.1.1978 ordered modification of the panel. Since the appeal committee directed alteration in the panel the first respondent had re-drawn the panel. In the meantime 11 more persons got themselves qualified by passing the departmental test prescribed for promotion to the cadre of Assistants. The first respondent drew a fresh panel empanelling 28 eligible Junior Assistants for being promoted to the cadre of Assistants. The said panel was approved by the appeals committee in its resolution No. 44, dated 26.4.1978. It is thereafter the writ petitioners passed departmental test during 1978 and 1979 as against respondents 4 to 20 who had acquired the test qualifications even during the year 1977 itself. Promotions were being effected from time to time from the said panel. It is denied that the panel ceased on the expiry of one year from the date of drawal of the panel. As per Rule 25 of the rules the seniority of a person appointed to any class or category of service is to be determined with reference to his rank in the list of promotion panel. In any event the petitioners would not have been empaneled above the respondents 4 to 20 as they passed the required test only during 1978, 1979 and 1980. As such the grievances of the petitioners are misconceived. The representations of the petitioners were rightly rejected by the appeal committee as well as the Government.

9. It is incorrect to suggest that the panel had lapsed and it was not valid beyond April, 1979. It is untenable to suggest that respondents 4 to 20 should not have been appointed on a regular basis and that their appointments were only in leave vacancies. It is also incorrect to suggest that the respondents 4 to 20 could not count their promotion as regular. The panel drawn was valid till it exhausted as per the rules. Further all the persons who had been empanelled have been promoted in due course before 10.5.1978 as and when vacancies arose, and merely because they were reverted for a short period the petitioners cannot claim that they should be placed above respondents 4 to 20. The petitioners having failed to acquire the test qualification, cannot at this stage complain that the juniors had been promoted earlier. The respondents 4 to 20 and all the petitioners have been promoted to the cadre of Assistants in due course, and further some were promoted to the cadre of Superintendents from the cadre of Assistants. It is further submitted that even subsequently, as and when vacancies had arisen or were created in higher cadres, promotions were made from out of the panels prepared from those eligible for promotion. Thus the respondents have prayed for dismissal of the writ petition.

10. The writ petitioners have filed a reply affidavit reiterating their stand taken in the affidavit filed in support of the writ petition, giving few more particulars and elaborating the contentions with regard to Rule 27.

11. The respondents 4 to 20 have filed a counter affidavit principally contending that they were fully qualified in all respects on or before 1977, and they were promoted as Assistants in May, 1978 whereas the petitioners became qualified only in the years 1979 and 1980, subsequent to promotion of respondents 4 to 20 as Assistants. As on the date of promotion of respondents 4 to 20 none of the petitioners were qualified for promotion to the post of Assistants. On that basis the respondents 4 to 20 were promoted overlooking the claims of petitioners. It is also submitted that the next avenue of promotion is the post of Headclerk. Basing on the seniority, the post of Assistants, vacancies in the post of Headclerks are to be filled. Since the respondents 4 to 20 were promoted earlier based on qualification- cum- seniority, they ranked higher in the seniority of Assistants which is a feeder post for the post of Headclerk. Hence the claim of the petitioners that they should be promoted as Headclerks is devoid of merits. The services of respondents in the cadre of Assistants were regularised, and some of them were given the selection grade. The panel of promotion was drawn on 26.4.1978 and before the end of 1978 all of them were promoted as Assistants. Hence, the contention of the petitioners that after the lapse of the same these respondents were given promotion is incorrect. The petitioners after a lapse of 14 years cannot disturb the seniority of respondents 4 to 20 affecting their promotion based on the presumptions and assumptions. Thus they have prayed for dismissal of the writ petition.

12. The respondents 1 and 2 have filed additional counter affidavits explaining their case and further giving few more details and particulars in regard to the placement of petitioners and respondents 4 to 20 and also their particulars of passing the departmental test, date of promotion and other details.

13. Respondents 4 to 20 also have filed one more counter affidavit on 31.7.1996 reiterating their stand asserting that they were promoted on regular basis; there was delay on the part of the petitioners in challenging the promotions of the petitioners and further elaborating their stand.

14. Shri N.T. Vanamamalai, learned senior counsel for the petitioners urged that the petitioners were seniors to respondents 4 to 20 in the cadre of Junior Assistants; respondents 4 to 20 were promoted to the post of Assistants earlier as they had passed the account test which was a condition precedent for promotion; the petitioners passed account test subsequently and they were promoted later; having regard to their seniority in the feeder cadre viz., Junior Assistants the petitioners ought to have been placed above the respondents 4 to 20 in the cadre of Assistants. The promotion panel for promotion to the posts of Assistants ought to have been prepared every year and such a panel could remain valid and operative only for one year; had the promotion panels prepared every year, the petitioners' names would have found in the panel; consequently as and when they were promoted they could have taken seniority over the respondents 4 to 20; respondents 4 to 20 were promoted on a temporary basis as Assistants and even in some cases the vacancies arose

subsequently.

15. The learned Counsel built up his argument on Rule 27 and Rule 43 of the Madurai City Municipal Corporation Service Rules, 1975, (for short the Rules). Rule 27 of the Rules relates to promotion panel, and selection of candidates for higher posts is regulated by the said Rule. Rule 43 states, in matters in respect of which no provision has been made in the rules, every member of the service shall, as nearly as possible, be governed by the provisions applicable to the Government servants of similar status and standing.

According to the learned Counsel in regard to preparation of promotion panel every year and its validity period having not been provided for in the Rules, by virtue of Rule 43, Rule 4 of the Tamil Nadu State Subordinate Service Rules is attracted. The respondent No. 1 failed to prepare promotion panel every year and promotions made on the basis of the panel prepared till the list was exhausted was not correct. Had there been preparation of promotion panel every year the petitioners having passed the account test between November, 1978 to May, 1979, could find their place in the promotion panel and consequently they would have been placed above respondents 4 to 20.

16. Shri E. Padmanabhan, the learned senior counsel representing respondents 1 and 2 submitted that the petitioners in the writ petition having not challenged the promotion panel consisting of 22 candidates including respondents 4 to 20, are not entitled for any relief; even before the Appeal Committee of the Madurai City Municipal Corporation and before the Government they sought for only inclusion of their names in the promotion panel; respondents 4 to 20 were promoted out of the promotion panel properly and validly prepared even prior to the passing of the account test by the petitioners, in that respondents 4 to 20 were promoted in 1977 and the petitioners passed their account test between November, 1978 to May, 1979, and they were subsequently promoted. He brought to my notice G.O.Ms. No. 1746, R.D. & L.A. Department, dated 17.10.1975 amending Rule 43 of the Rules; by that amendment there was substitution of Rule 43; the substituted Rule 43 specifically provided for application of only certain set of Rules; Tamil Nadu Subordinate Services Rules are not one of the rules specified.

17. According to him Rule 27 is self-contained rule providing for preparation of promotion panel and selection of candidates for higher posts, and Tamil Nadu Subordinate Services Rules have no application in view of the substitution of Rule 43 as aforementioned; there is no warrant for preparation of promotion panel every year, and the panel of promotion prepared shall be utilised till it is exhausted. Promotions of the respondents 4 to 20 were not temporary promotions under Rule 8 of the Rules. On the other hand the promotion panel was prepared as per Rule 27 and it is only thereafter the respondents 4 to 20 were promoted as their names were found in the promotion panel at the relevant period; the petitioners having not passed the required account test so as to be eligible for promotion when the respondents 4 to 20 were promoted, cannot claim seniority over them.

18. Shri A. Alagirisamy, learned senior counsel for the respondents 4 to 20 reiterated that the petitioners did not challenge the promotion panel prepared containing the names of respondents 4 to 20; they only sought for inclusion of their names in the panel having passed the account test; the petitioners cannot challenge the promotions of respondents 4 to 20 and claim seniority over them at this length of time having regard to the fact that the respondents 4 to 20 were promoted as early as in the year 1977; all the petitioners did not file appeals to the appeal committee, and even the appeal filed by one of them was not within the time; further even after the rejection of their claim by the appeal committee they did not pursue their claims immediately thereafter before the Government. According to the learned Counsel, the prayer of the petitioner to prepare a fresh panel is untenable inasmuch as all the petitioners were also promoted to the cadre of Assistants. Out of respondents 4 to 20 some of them were promoted to higher cadres from the cadre of Assistants, and at this stage the claim of the petitioners to place them above respondents 4 to 20 cannot be sustained.

19. Shri N.T. Vanamamalai, the learned senior counsel in reply fairly, and rightly in my opinion, did not press his argument on the basis of Rule 43 having regard to the amendment brought to the said Rule by way of

substitution. He only reiterated that as per Rule 27 promotion panel ought to have been prepared having regard to all aspects stated therein and giving preference to seniority; the promotions given to respondents 4 to 20 as can be seen from their very orders of promotion, they were on temporary basis and they could be reverted at any time without assigning any reasons; such temporary promotions cannot be counted as regular promotions. As such the petitioners being seniors to respondents 4 to 20 when they were regularly promoted, they should be placed above the respondents 4 to 20.

20. The learned Counsel for the petitioners relied on Madan Lal and Ors. v. State of Jammu and Kashmir and Ors. : [1995]1SCR908 .

21. The learned Counsel for the respondents cited the following decisions to seek support to their submissions:

(i) Subba Rao and Ors. v. State of Andhra Pradesh, represented by its Secretary, Industries Department and Ors. (1972)1 A.W.R. 370; (ii) P.S. Sadasivaswamy v. State of Tamil Nadu 1974 Lab. I.C. 1431; (iii) K. Satyanarayana and two Ors. v. The Government of Andhra Pradesh, represented by the Secretary, Finance Department, Secretariat, Hyderabad and Anr. (1976)1 A.W.R. 242; and (iv) Shitala Prasad Shukla v. State of U.P. and Ors : 1986(26)ELT193(SC) .

22. I have considered the submissions made by the learned Counsel on both side.

23. The facts not in dispute are the following:

The petitioners were seniors to respondents 4 to 20 in the cadre of Junior Assistants, passing of account test was a condition precedent for promotion to the post of Assistant from cadre of Junior Assistant; the respondents 4 to 20 passed account test prior to the petitioners passing the account test, the respondents 4 to 20 passed the account test between May, 1974 to November, 1977 except N.B. respondent No. 2 who passed the test in May, 1978 and the petitioners passed the said test subsequently between November, 1978 to May, 1979; the names of the petitioners were found in the panel of promotion prepared by respondent No. 1 and thereafter they were promoted all the respondents 4 to 20 were promoted before the petitioners passed the account test; and some of them were even promoted to higher cadres from the cadre of Assistant.

24. Rule 27 of the Rules reads:

Promotion panel - Selection of candidates for higher posts shall be regulated as follows:

(a) The Commissioner shall assess the number of vacancies that would occur by superannuation of existing incumbents, creation of new or additional posts within a period of six months or one year, as considers necessary, under each class or category of the service;

(b) The Commissioner shall thereafter cause a panel of candidates prepared in the order of preference based on their qualifications, merit and ability seniority being taken into account only if the qualification merit and ability are approximately equal;

(c) The number of persons to be included in the panel will be equal to twice the number of vacancies assessed or such number as the Commissioner may decide;

(d) Separate panel shall be prepared to each category of the service for which the qualification and scale of pay fixed are different;

(e) The Commissioner shall arrange the names of all eligible candidates in the order of their seniority in the class from which promotion has to be made and also record his own views in the Fitness or otherwise of the candidates. He shall thereafter place the list before the appointing authority which shall scrutinise them and draw the promotion panel for each class.

(f) Any modification to the list placed by the Commissioner shall be justified by the appointing authority and the reasons therefor shall be recorded by it in writing;

(g) The panel approved by the appointing authority shall be maintained by the Commissioner and the appointments shall be made in the order in which their names are arranged in the panel.

25. Rule 26 declares that every promotion shall be made from a promotion panel drawn up under Rule 27. Rule 25 states that the seniority of a person appointed to any class or category of the service shall be determined with reference to his rank in the list of approved candidates or promotion panel, as the case may be. Under Rule 8, provision is made for temporary appointments and promotions for a period not exceeding six months and for a period not exceeding three months respectively to fill up vacancy immediately in the public interest, where there will be undue delay in making of appointments in accordance with the rules.

26. Respondents 4 to 20 were included in the promotion panel, they having passed the account test before they were promoted as Assistants; their promotions were not limited to a period of three months and they have been continuing in the promoted post and even some of them were further promoted to the higher cadre. May be some of them were reverted for a short period as a result of leave vacancies etc. They were included in the panel of promotion as they were qualified having passed the account test. If the petitioners were similarly eligible and had passed the required account test, they could get the benefit of such promotion. Having regard to all aspects, facts and circumstances of the case, it is difficult to say that the promotions of respondents 4 to 20 were temporary promotions coming within the ambit of Rule 8.

27. Rule 26 speaks of regular promotions as against temporary promotions contemplated in Rule 8. Under Rule 27, the Commissioner assesses the number of vacancies which may occur by super-annuation, creation of new or additional posts within a period of six months or one year as he considers necessary under each class or category of service; thereafter causes a panel of candidates prepared in the order of preference based on their qualifications, merit and ability, seniority being taken into account only if the qualification, merit and ability are approximately equal; the number of persons to be included in the panel would be equal to twice the number of vacancies assessed, or such number as the Commissioner may decide. Any modification to the list placed by the Commissioner shall be justified by the appointing authority and the reasons therefor shall be recorded by it in writing; the panel approved by the appointing authority shall be maintained by the Commissioner and the appointments shall be made in the order in which their names are arranged in the panel.

28. The said Rule 27 in my view is a self contained rule so far it relates to the preparation of promotion panel. The Rule does not expressly or by necessary implication show that such a promotion panel should be prepared annually, and that panel so prepared shall be valid only for a period of one year, and after the expiry of one year it ceases to exist. On the other hand, the panel so prepared can be in respect of twice the number of assessed vacancies or such number as the Commissioner may decide. It permits modification to the list. The appointing authority may justify such modification.

29. Further, the panel so prepared as approved by the appointing authority shall be maintained by the Commissioner and appointments shall be made in the order in which their names are arranged in the panel. This again indicates that the panel does not cease to operate after expiry of one year. On the other hand, promotions can be made out of the panel so prepared in the order in which the names of the candidates are arranged. It is also stated in the rule that the seniority will have preference only if the qualification merit and ability are approximately equal. It is relevant to state here itself that the petitioners having not passed the account test could not be said to have the equal qualification with the respondents 4 to 20. Yet again seniority of a person appointed to a class or category of the service shall be determined with reference to his rank in the list of approved candidates, or promotion panel, as the case may be as laid down in Rule 25 of the Rules. When the petitioners could not be included in the promotion panel in the year 1977 when the respondents 4 to 20 were qualified and their names were included in the promotion panel, they cannot claim seniority over

the respondents 4 to 20.

30. In the case of I. Subba Rao and Ors. v. State of Andhra Pradesh, represented by its Secretary, Industries Department and Ors. (1972)1 A.W.R. 370, it is held that promotion of qualified juniors by transfer to higher category when seniors were not qualified cannot be annulled on the ground that the seniors got themselves qualified and promoted four years later. In paragraph 3 of the said Judgment it is stated thus:

Nearly four years later, the petitioners are sought to be reverted on the ground that certain persons, who were their seniors in the cadre of Lower Division Clerks, have subsequently acquired the qualification necessary for promotion. I do not think that the action of the Government can be upheld as just or can be said to be in consonance with the canons of fair play. In circumstances which are analogous to the case on hand, the view taken by Justice Vaidya, lends support to the contention urged on behalf of the petitioners. Dealing with facts which are similar, Vaidya, J. repelled the contention urged on behalf of the Government that their action was in accord with the principles of natural justice. The learned Judge said: It is a very laudable principle that when other things are equal, senior persons must get the first chance for promotion. But this principle has to be applied at the time when promotions or appointments are made and the persons eligible at that time have to be taken into consideration and selection made from them according to merit, ability and seniority.

31. In the case of P.S. Sadasivaswamy v. State of Tamil Nadu 1974 Lab.I.C. 1431, the writ petition was not entertained on the ground that where a Government servant slept over the promotions of his juniors over his head for 14 years cannot be given relief so as to unsettle the settled matters.

32. In the case of K. Satyanarayana and two Ors. v. The Government of Andhra Pradesh, represented by the Secretary, Finance Department, Secretariat, Hyderabad and Anr. (1976)1 A.W.R. 242, it is held that the regularisation of juniors services, who had been promoted when he was fully qualified and who has been continuously in service for over a number of years, cannot be made dependant upon the subsequent acquisition of qualification by the seniors. If such proposition is accepted it would lead to startling results. Further in paragraph 33 of the same judgment it is stated thus:

In view of the above clear pronouncement, the mere fact that the order promoting the petitioners was a temporary one, and that they were not given probationary rights, could not make any difference and the acquisition of qualification by the seniors on subsequent dates would not clothe the appointing authority with a right to revert the petitioners and appoint the seniors, who became qualified, in place of the petitioners. In this case there is no such reversion at all. If the appointing authority had not even the power to revert them, on that account, it stands by reason and as an a fortiori one, that the seniority acquired by the petitioners herein cannot be disturbed by the mere circumstance that the senior U.D.A. had acquired qualifications subsequent to the temporary promotion of the petitioners herein. In my opinion, the above decision concludes the case and is directly applicable and with great respect I follow the reasoning in the above decisions.

33. The Supreme Court in Shitala Prasad Shukla v. State of U.P. and Ors. : (1986)IILLJ298SC , held that the appellant in that case was absorbed as a lecturer with effect from the date on which he had actually secured the exemption. He was working as a Lecturer in Hindi in a college and did not have the requisite qualification. As such he was not entitled to be appointed in the Lecturer's grade as Lecturer (Hindi) having regard to the prohibition contained in Section 16-F. He sought exemption as envisaged by Section 16-E of the Act. Exemption was granted by the Board of High School. The contention that though the Board granted exemption only on July 23, 1963 he must be deemed to have been exempted from November 4, 1960 was repelled.

34. The decision of the Supreme Court in the case of Madan Lal and Ors. v. State of Jammu and Kashmir and Ors. : [1995]1SCR908 , on which reliance was placed by the learned Counsel for the petitioners, in my view, does not support them. In that case there was a specific Rule 41 which stated that,

The list and the waiting list of the selected candidates shall remain in operation for a period of one year from the date of its publication in the Government Gazette or till it is exhausted by appointment of the candidates whichever is earlier, provided that nothing in this rule shall apply to the list and the waiting list prepared as a result of the examination held in 1981 which will remain in operation till the list or the waiting list is exhausted.

That was a case in which express provision was made in the rule as to the period of life of the list. The situation in the case on hand is otherwise, as can be seen from Rule 27.

35. In a recent Judgment the Supreme Court in Mahesh Kumar Agal v. Director General of Police and Anr. : (1996)2SCC70 , in paragraph 2 it is stated thus:

Passing the Hindi test is a condition for promotion and since the appellant had passed the test on 20.9.1981, he was given promotion and seniority was fixed with effect from the passing of the said test. Under these circumstances, we do not find any illegality in the order passed by the tribunal warranting interference.

36. Applying the Rules and principles laid down in the decisions aforementioned to the undisputed facts of the case, I do not find substance and merit in the contentions of the petitioners. Further the panel of promotion including the names of respondents 4 to 20 was approved by the appointing authority. Some of them were promoted even to higher cadres. All the petitioners also were promoted subsequently when they passed account test. The petitioners want to unsettle the seniority of respondents 4 to 20 at this length of time which again is not justified.

37. In the result, for the reasons stated and discussion made above, I have no hesitation to hold that the writ petition has no merits. It is liable to be dismissed. Accordingly it is dismissed.

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