

WA.No.125 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	19.08.2026
<i>Pronounced on</i>	28.08.2026

CORAM

THE HON'BLE MR.JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE KRISHNASWAMY GOVINDARAJAN

WA.No.125 of 2026
and CMP.No.1073 of 2026

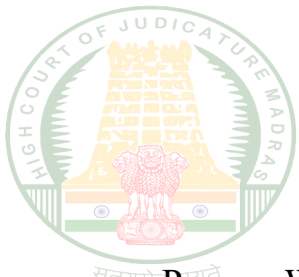
V.Aarthi Nisha

..Appellant

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai – 600009.
2. The Director,
Directorate of Medical Education,
162, EVR Periyar Salai,
Kilpauk, Chennai-10.
3. The Principal,
Tamil Nadu Government Dental College And Hospital,
Chennai-03.
4. Vidya Jayaram
5. Dental Council of India,
J6MP G22, Aiwan-E-Galib Marg,
Kotla Road, Temple Lane,
New Delhi- 110 002.

Respondents



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P.No.36875 of 2025 dated 28.11.2025.

For Appellant:

Mr.MA.Gowthaman

For Respondents:

Mrs.Y.Kavitha,
Additional Government Pleader for R1 to R3

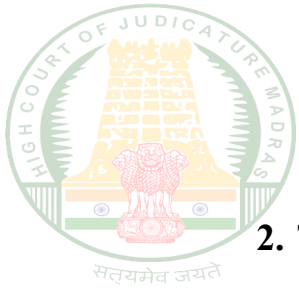
Mr.R.Sankara Subbu for R4

Mr.Subramanian Vaidyanathan for R5

JUDGMENT

Krishnaswamy Govindarajan, J.

This Writ Appeal is directed against the order passed by the learned Single Judge in W.P.No.36875 of 2025, dated 28.11.2025, whereby the writ petition filed by the appellant herein was dismissed. The prayer in the writ petition was for a Writ of Certiorarified Mandamus to quash G.O.(D).No.787, issued by the Health and Family Welfare (A1) Department, dated 11.07.2025, insofar as the promotion of the fourth respondent is concerned, and consequently, to direct the official respondents to include the appellant's name in the panel for promotion to the post of Associate Professor.

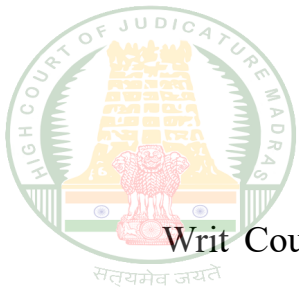


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2. The appellant joined the Tamil Nadu Medical Service as an Assistant Professor on 31.07.2014, having acquired her Post Graduate Degree in Master of Dental Surgery in the year 2011. It is the case of the appellant that she fulfills all the requisite criteria as per the Dental Council of India norms for promotion to the post of Associate Professor. When the promotion panel was drawn by the first respondent vide G.O.(D).No.787, dated 11.07.2025, the fourth respondent was included in the panel and subsequently promoted. The appellant challenged this inclusion on the ground that the fourth respondent was suffering from a currency of punishment on the crucial date of preparation of the panel, rendering her ineligible for promotion.

3. The official respondents 1 to 3 countered the claim by stating that no regular departmental disciplinary proceedings were pending against the fourth respondent at the relevant point of time.

4. The fourth respondent entered appearance and pleaded that the appellant is junior to her in service. Relying on the Medical Seniority List, it was submitted that the fourth respondent is placed at Seniority No.322, whereas the appellant is placed at Seniority No.352. On the sole ground of seniority, the



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Writ Court dismissed the Writ Petition, validating the selection of the fourth

respondent.

5. We heard the counsel appearing on behalf of all parties and perused the materials placed on record.

6. Upon examination of the evidence, it is seen that on 07.08.2024, the third respondent/Principal of the Tamil Nadu Government Dental College and Hospital, upon instructions from the Directorate of Medical Education and Research dated 27.06.2024, issued a recovery order against five individuals. This order followed an inquiry into financial losses sustained by the institution during the procurement of certain medical equipment. The relevant portion is extracted hereunder:

“6. Based on the enquiry officers report, Principal Tamil Nadu Government Dental College and Hospital, Chennai was instructed by the O/o the Directorate of Medical Education and Research vide reference 6 cited to recover the amount from the five individuals on whom the responsibility was fixed. Accordingly a two member committee was formed to assess the actual financial loss caused to the Government for the non-supply of the



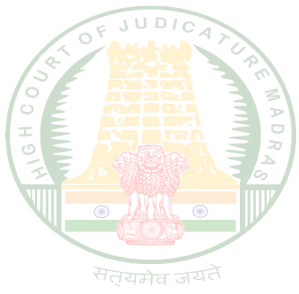
separate cephalogram Radiograph components sensor to the college.

The amount paid are as follows for the purchase of OPG X-ray machine with CEH machine.

S.No.	Description of the Item	Cost in Rupees
1	Diamax 4 sensor system X-ray machine as per HOD specification	4,99,950/-
2	2DS2 Digital Panoramic X-ray machine as per specification	4,98,000/-
3	Work station computer & Software System X-ray machine as per specification	4,98,600/-
4	X Radius compact 2D CEPH X-ray machine as per the specification	4,99,000/-
	Total	19,95,550/-

7. Thereafter, based on the report of the enquiry committee and auditing, the gravity of the offence was worked out and the amount of recovery from each individual were fixed as follows:-

S.No.	Name of the Official with Designation	Percentage	Amount (in Rs.)
1	Dr.G.Vimala, Principal, GDC, Pudukottai (Former Principal, TNGDC&H)	30%	2,07,225.00
2	Dr.S.Jeyachandran, Prof & HOD, TNGDC&H (Retired)	25%	1,72,687.50
3	Mr.D.Sudha, Office Superintendent, TNGDC&H	20%	1,38,150.00



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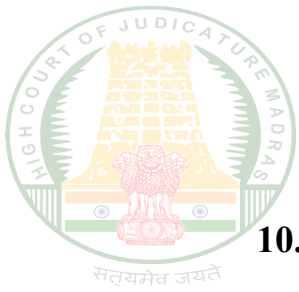
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4	Dr.Vidya Jeyaram, Assistant Professor, TNGDC&H	15%	1,03,612.50
5	Dr.A.Muthukumaraswamy, Associate Professor, TNGDC&H	10%	69,075.00
	Total	100%	6,90,750.00

8. Under the said order dated 07.08.2024, financial liability was fixed upon the fourth respondent and a sum of Rs.1,03,612.50/- was ordered to be recovered from her. The fourth respondent did not challenge this recovery order and the finding of monetary loss caused to the public exchequer attained finality.

9. To assess the statutory impact of this recovery order, we must look into Section 7, Schedule XI, Provision 16 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Provision 16 explicitly mandates:

“(16) In cases where recovery to make good the monetary loss caused to the Government is ordered against a member of service, his name shall not be considered for inclusion in the approved list during the period of such recovery, subject to a maximum period of 24 months from the date of issue of order irrespective of the fact whether it is recovered in full or not.



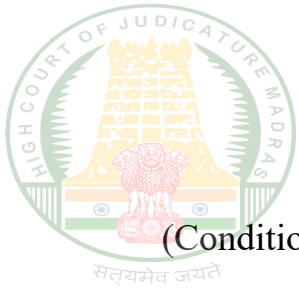
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10. The recovery order against the fourth respondent was passed on 07.08.2024. The impugned promotion order, i.e. G.O.(D).No.787 was issued on 11.07.2025. It is legally indisputable that the promotion was granted within one-year statutory bar period during which the fourth respondent's name could not be included in any approved list. The Writ Court completely overlooked the statutory embargo laid down under Schedule XI of the 2016 Act and dismissed the Writ Petition solely on the ground of seniority.

11. It is a settled principle of law that seniority cannot override an express statutory disqualification. The inclusion of the fourth respondent in the promotion panel during the currency of a recovery order is *ex-facie* illegal and violates the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

12. In view of the aforesaid observations, the order of the Writ Court dismissing the Writ Petition is set aside. Consequently, G.O.(D).No.787, dated 11.07.2025 is hereby quashed to the extent of the promotion granted to the fourth respondent. The first respondent is directed to re-do and prepare a fresh panel for promotion to the post of Associate Professor, strictly in compliance with Section 7, Schedule XI of the Tamil Nadu Government Servants



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(Conditions of Service) Act, 2016, and other relevant Government Orders. The

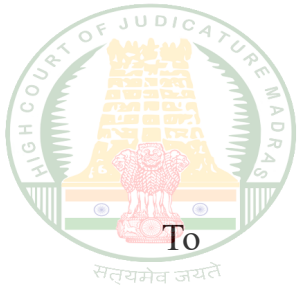
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13. The Writ Appeal stands allowed to the extent stated above. No costs.

Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (K.G.R.,J.)
28-08-2026

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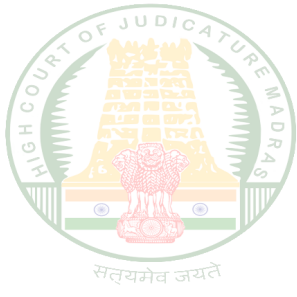


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To

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S.M.SUBRAMANIAM, J.
AND
KRISHNASWAMY GOVINDARAJAN, J.

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**Pre-delivery Judgment made in
WA.No.125 of 2026**

28-08-2026