



W.P.(MD).No.10544 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.10544 of 2019
and
W.M.P.(MD).No.8077 of 2019**

T.Manickavel

... Petitioner

Vs.

1.The Principal Secretary,
Personnel and Administrative Reforms (S) Department,
Fort St George,
Chennai – 600 009.

2.The Principal Secretary and Commissioner
Treasuries Accounts Department,
Anna Salai,
Nandanam,
Chennai – 600 035.

3.The District Treasury Officer,
Karur District,
Karur- 639 005.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.2594/2017/A1 dated 06.03.2019, on the file of the third respondent and quash the same as illegal, and consequently for a direction directing the third respondent to issue revised



W.P.(MD).No.10544 of 2019

seniority panel for promotion as Accountant by including the name of the petitioner, for the year 2004 in Karur District Treasury Unit and consequent changes in the subsequent panels for his promotion as Superintendent and Assistant Accounts Officer, with consequential benefits, within the time period stipulated by this Court.

For Petitioner : Mr.G.Karthik,
For Mr.S.Rajasekar.

For Respondents : Mr.S.R.A.Ramachandran,
Additional Government Pleader.

ORDER

This Writ Petition is filed challenging the impugned order dated 06.03.2019 with a consequential relief to issue revised seniority panel for promotion as Accountant by including the name of the petitioner, for the year 2004 in Karur District Treasury Unit and consequent changes in the subsequent panels for his promotion as Superintendent and Assistant Accounts Officer, with consequential benefits.

2. The petitioner was selected in Group IV Services during the year 1998-1999, through TNPSC and appointed on 25.05.2001 and his service was regularized vide proceedings dated 04.07.2002 with effect from 25.05.2001 and completed probation on 24.05.2003. The contention of the petitioner is that the



W.P.(MD).No.10544 of 2019

third respondent vide proceedings dated 22.05.2004 states that 3 Junior Assistants were technically qualified to hold the post of Accountant as on 14.03.2004. The petitioner was placed in Seniority No.4 in the said panel. The relevant portion of the seniority panel is as under:

கருர் மாவட்ட முதநிலை வாரிசை எண்

1.திரு.மு.இராமகிருஷ்ணன் இளநிலை உதவியாளர்	–	2
2.திருமதி.க.ஜெயந்தி இளநிலை உதவியாளர்	–	3
3.திரு.பா.தேயங்கராமநாதன் இளநிலை உதவியாளர்	–	4
4.திரு.த.மாணிக்கவேல், தட்டச்சர்	–	7

3. There were 3 vacancies, therefore the first 3 persons are entitled to promotion. Based on the seniority panel, the respondents have granted promotion to the first three persons vide proceedings dated 12.05.2004. But the first person namely Ramakrishnan has submitted a letter relinquishing the promotion on 17.08.2004 and he was directed to submit temporary relinquishment by submitting proper documents in proper format. Thereafter, the said Ramakrishnan again submitted relinquishment letter in proper format on 23.06.2004. The contention of the petitioner is that when the said Ramakrishnan has relinquished the post, then the petitioner should have been accommodated in the vacancy, since the petitioner is in Serial No.4 in the said panel.



W.P.(MD).No.10544 of 2019

4. The respondents have filed counter stating that the original seniority list is as under:

2003 Accountant Panel:

1.Thiru.K.Manokaran

2004 Accountant Panel:

1.Thiru.M.Ramakrishnan

2.Tmt.K.Jeyanthi

3.Thiru.B.Deiveegaramanathan

2005 Accountant Panel:

1.Tmt.R.Visalatchi

2.Thiru.T.Manickavel

5. The further contention of the respondents is that certain names were not included in the said panel, since those persons had not completed Bhavanisagar Training. Since the employer has to sponsor the names for the Bhavanisagar Training and the individual cannot have no say over the said training by their own choice, the said service qualification of Bhavanisagar training cannot be held against the individuals. There are several judgments of the High Court wherein it has been consistently held the service qualification



W.P.(MD).No.10544 of 2019

like Bhavanisagar Training and Survey Training cannot be held against the individuals. Therefore the 1st respondent issued G.O. declaring probation by granting retrospective effect to persons who had completed the Bhavanisagar training belatedly. Thereafter the respondents have revised the panel and the said panel is as under:

2003 Revised Accountant Panel:

- 1.Thiru.K.Manokaran
- 2.Tmt.K.Jeyanthi
- 3.Thiru.B.Deiveegaramanathan
- 4.Tmt.R.Visalatchi

2005 Revised Accountant Panel:

- 1.Tmt.V.Vimala
- 2.Thiru.T.Manickavel

6. In the revised panel, the respondents have included one K.Jeyanthi and R.Visalatchi for the year 2003. Then the respondents have revised the panel for the year 2005, whereby one V.Vimala and T.Manickavel (petitioner herein) were included in the said panel.



W.P.(MD).No.10544 of 2019

7. In the counter, the respondents have stated that they had drawn “Nil Panel” for the year 2004. This Court is of the considered opinion when the petitioner is available in the year 2004, then the respondents ought to have issued the panel for 2004 by including the petitioner in the said panel. When an employee is available for the said year, then the respondents have no right to draw “NIL” panel. The said act of drawing “NIL” panel would affect the petitioner's right to consider for promotion by drawing a panel. The respondents have every right to state that there is no vacancy, but the respondents have no right to draw “NIL” panel when candidate is available.

8. Having said that the petitioner has a right to be included in 2004 panel, when the respondents have granted promotion to first three persons in the earlier panel vide proceedings dated 12.05.2004, then the petitioner is entitled to promotion from 12.05.2004 onwards. The respondents are directed to grant notional promotion and also the consequential service and monetary benefits to the petitioner. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.



W.P.(MD).No.10544 of 2019

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9. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

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W.P.(MD).No.10544 of 2019

S.SRIMATHY, J.

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W.P.(MD).No.10544 of 2019

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