

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.809 of 2015

Baskara Pandian

.. Appellant / Petitioner

Vs.

1.Union of India,
represented by the Chief Secretary to Government,
Government of Puducherry,
Puducherry-605 001.

2.Pondicherry Market Committee,
represented by its Secretary,
Agricultural Complex,
Thattanchavady,
Pondicherry-605 009.

3.V.Ramakrishnan ... Respondents / Respondents

This writ appeal is preferred under Clause 15 of the Letters Patent against the order of this court dated 15.04.2015 made in W.P.No.10704 of 2015.

Petition presented under Article 226 of the constitution of India to issue an order of writ of mandamus to direct the respondents to hold a review Department Promotion Committee and consider the petitioner for promotion to the post of Senior Supervisor from the date of promotion of the third respondent with all seniority service monetary benefits and backwages.

For Appellant : Mr.Prakash Adiapadham

For Respondents: Mr.A.Tamilvanan for R-1
K.S.Ilangovan for R-2

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant appeal arises from the order dated 15.4.2015 rendered in W.P.No.10704 of 2015.

2 The writ petitioner / appellant came up with the writ petition for a direction to the respondents to hold a review Department Promotion Committee and also consider the petitioner for promotion to the post of Senior Supervisor from the date of promotion of the third respondent, with all seniority, service, monetary benefits and backwages.

3 The case of the writ petitioner / appellant before the writ court was that overlooking the seniority position of the petitioner, who was at Serial No.6, the third respondent was promoted on the post of Senior Supervisor against the scheduled caste quota. Thus, the said promotion be reconsidered and the petitioner be promoted thereagainst with effect from the same date.

4 The learned Single Judge, referring to the decision dated 7.8.2014 of the Supreme Court in Civil Appeal No.10829-10830 of 2010, came to the conclusion that promotion of the third respondent against the reserved quota was in consonance with the legal provision at the relevant point of time. The aforesaid decision was rendered only in August, 2014 and the third respondent was promoted much earlier and as such, the same cannot be set aside on the basis of the subsequent decision, which normally is prospective and consequently, dismissed the writ petition.

5 The learned counsel appearing for the appellant / writ petitioner reiterated the said submission, contending that the said G.Os., on the basis of which the third respondent was promoted, came to be quashed by the Supreme Court in the aforesaid decision, namely, in *Puducherry Scheduled Caste People Welfare Association Vs. Chief Secretary to Government, Union Territory of Pondicherry and others*¹, and as such, the consequential benefit be given to the writ petitioner / appellant.

6 The Supreme Court, while setting aside the relevant G.O.Ms.No.11/2005 /Wel(SCW II) and G.O.Ms.No.12/2005/Wel(SCW II) dated 5.8.2005, held that the same were not in conformity and consonance with the Presidential Order, 1964. However, there was no observation / direction in respect of the appointment made earlier on the basis of the said G.Os.

7 In the case on hand, the third respondent was promoted long back in the year 2010 and as such, the same cannot be set aside at this stage. Further, the learned counsel for the second respondent submits that as and when vacancy is available, the case of the appellant shall be considered on merits and in accordance with law. Given the aforesaid facts and circumstances, the order sought to be impugned is just and proper, warranting no interference.

1 (2014) 9 SCC 236.

8 Resultantly, the writ appeal stands dismissed. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vvk

To

- 1.The Chief Secretary to Government,
Union of India,
Government of Puducherry,
Puducherry-605 001.
- 2.The Secretary,
Pondicherry Market Committee,
Agricultural Complex,
Thattanchavady, Pondicherry-605 009.

1 cc to Mr.Prakash Adiapadham, Sr. 30464

1 cc to Mr.K.S. Ilangovan, Adovate, sR. 30430

W.A.No.809 of 2015

TEJ (CO)
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