

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 22-09-2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.A.No.642 of 2015

The Secretary to Government,
Personnel and Administrative Reforms (SAT) Department,
Fort St.George,
Chennai-600 009.

...Appellant/2nd Respondent

-vs-

1.R.Baskaradoss ...Respondent/Petitioner

2.Tamil Nadu Administrative Tribunal,
represented by the Registrar,
Chennai-600 104. ...Respondents /Ist Respondent

Appeal under Clause 15 of the Letters Patent against the
order of this Court, dated 28.04.2014, passed in W.P.No.8372 of
2007.

W.P.No.8372 of 2007

having been transferred from the file of Tamil Nadu
Administrative Tribunal in O.A.No.5346 of 2002, is filed to direct
the respondent to fix the seniority of the petitioner in the post
of Assistant by taking into account the past service rendered by
him in the parent department and consequently promote him to the
post of Section Officer/ Court Officer/ Legal Draftsman with effect
from the date of promotion given to his juniors with all monetary
and service benefits

For appellant : Mr.P.S.Sivashanmugasundaram,
Spl.Govt.Pleader

For respondent 1 : Mr.V.Chandrasekaran

J U D G M E N T

(Judgment of the Court was delivered by S.Vaidyanathan, J.)

Aggrieved over the order of the learned single Judge,
dated 28.04.2014, passed in W.P.No.8372 of 2007, directing
refixation of seniority of the first respondent/writ petitioner by
taking into account his past service rendered in the parent

department i.e., Tamil Nadu Survey and Land Records Department, with consequential service benefits as that of promotion and other monetary benefits, the appellant/Government has filed this appeal.

2. First respondent joined the service in Tamil Nadu Survey and Land Records Department; thereafter, he was transferred to Tamil Nadu Administrative Tribunal and, subsequently, to High Court of Madras. According to him, he worked as Assistant in the parent department and, subsequently, on transfer to Tamil Nadu Administrative Tribunal, he was absorbed as Assistant; thereafter, he was transferred to High Court of Madras and, therefore, his entire service in the erstwhile departments has to be taken into account for the purpose of fixation of seniority and all other benefits.

3. Conversely, the appellant would contend that though the first respondent initially joined the Tamil Nadu Survey and Land Records Department and, thereafter, was absorbed in Tamil Nadu Administrative Tribunal as Assistant, the nature of work performed by the first respondent in the parent department was completely different vis-a-vis the Tribunal. The appellant would cite a tabular column at page 36 of the Typed Set of Papers, regarding the said difference. The said tabular column reads as under :

Sl.No	Criteria	Service	
		TAT Service	Ministerial Service
1.	Nature and duties of the post	Judicial nature which is a serious one (Dealing with cases of Government Servants). Even disputes of the Ministerial Staff are decided in the TAT	Ministerial nature dealing with services, with revenue etc., of the State.
2.	Responsibility with powers	Judicial responsibilities such as listing of cases before the Bench. Numbering of Applications, Comparing, Despatching etc. are being done independently by Assistants of TAT.	Ministerial Services responsibilities mainly oriented in drafting of letters, collecting of Revenue with the help of supervisors.

Sl.No	Criteria	Service	
		TAT Service Ministerial Service	
3.	Minimum Qualification	A degree of any University recognized by the UGC for the purpose of the Grant.	MGEQ (i.e., SSLC)
4.	Scale of Pay	Rs.5500-175-9000 (Pre-Revised 1640 Scale of Pay of ASO in High Court Service.	Rs.4000 (Pre-Revised 1200/-)

4. First respondent is unable to dispute the factual aspects of the services rendered by him earlier in the parent department and in the Tamil Nadu Administrative Tribunal, as to the different nature of duties.

5. The learned single Judge, relying upon a decision of the Apex Court in Sub-Inspector Rooplal and another v. Lt.Governor Through Chief Secretary, Delhi, and others, (2000) 1 SCC 644, while holding, that in similar circumstances, the Supreme Court has granted the relief to the employee therein, has granted the relief to the employee in the case on hand also.

6. In Sub-Inspector Rooplal's case, cited supra, the Supreme Court has categorically stated that equivalence of scale of pay of two posts is not the only factor to be judged, but the nature of work and the responsibility of the duties attached to the said two posts also must be similar.

7. Concedingly, eventhough the post held by the first respondent was Assistant in the parent department and also in the Tribunal, the pay scale of Assistant in the two departments is different, so also the nature of work. Hence, in our considered opinion, the finding of the learned single Judge granting the relief to the first respondent, as stated in the first graph of this judgment, cannot be sustained in toto. Instead, the service of the first respondent in the parent department shall be taken into account only for pensionary and other terminal benefits.

8. Yet another submission of the learned counsel for the petitioner is that though he joined the service of Tamil Nadu Survey and Land Records Department on 17.11.1982, his seniority from that date has not been reckoned. We are afraid, this submission of the first respondent has to be gone into only by the department. The learned Special Government Pleader has drawn the attention of this Court that there are several seniors above the first respondent and none of them has been granted the benefit, sought for by the first respondent. In view of the said submission

of the learned Special Government Pleader, the above submission of the learned counsel for the first respondent has no legs to stand.

9. Accordingly, this Writ Appeal is disposed of, modifying the order of the learned single Judge to the extent that the petitioner shall be entitled to the pensionary and other terminal benefits for the service rendered by him right from the date of his joining in the parent department till the date of his superannuation. The appellant is directed to extend the terminal benefits to the first respondent within a period of three months from the date of receipt of a copy of this judgment, with statutory interest applicable thereto, from the date it became due. No costs. Consequently, the connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dixit
To

1. The Tamil Nadu Administrative Tribunal,
represented by the Registrar,
Chennai-600 104.

2. The Secretary to Government,
Personnel and Administrative Reforms (SAT) Department,
Fort St. George, Chennai-600 009.

+2cc to Mr.V.Chandrasekaran, Advocate, S.R.No.53443
+1cc to the Government Pleader, S.R.No.54654

W.A.No.642 OF 2015

sm(co)
pmk.24.10.2016

WEB COPY