

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 24.10.2016

Coram

The Honourable Mr. Justice HULUVADI G. RAMESH
and
The Honourable Mr. Justice V. PARTHIBAN

W.P. Nos. 29971 & 29972 of 2016 and
WMP No. 25938 of 2016

S. Balasubramanian ... Petitioner in both the
Writ Petitions

Vs.

1. The Registrar General,
High Court of Judicature at Madras,
Chennai-600 104.

2. The Principal District Judge,
Tirunelveli.

3. S. Jayanthi
Chief Administrative Officer,
Court of District Judge,
Chengleput-603 001.

4. S. Vallinayagam,
Chief Administrative Officer,
Court of District Judge, Kanyakumari,
Nagercoil-629 001.

... Respondents in both
the Writ Petitions

W.P. No. 29971 of 2016:

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings in ROC.No.445/2012/C1 dated 26.4.2016 on the file of the first respondent, quash the same and consequently, direct the respondents 1 and 2 to pass appropriate orders placing the petitioner in the seniority list, over and above the names of the respondents 3 and 4 to the post of Sherishtadar, with effect from 5.3.2010 with all service conditions and monetary benefits arising there from, within a time frame as may be fixed by this Court.

W.P.No.29972 of 2016:

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order in A.No.164 of 2010 dated 5.3.2010 in D.No.2482 of 2010 dated 5.3.2010, on the file of the second respondent, quash the same and consequently, direct the respondents 1 and 2 to pass appropriate orders appointing the petitioner as the Sherishtadar, with effect from 5.3.2010 with all further promotions, service conditions and monetary benefits arising there from, within a time frame as may be fixed by this Court.

For petitioners : Mr. S.Subbiah

For Respondents : Mrs.A.Srijayanthi for R1&R2

COMMON ORDER

Challenging the proceedings of the respondents 1 and 2 dated 26.4.2016 and 5.3.2010 respectively, with consequential direction to them, to pass appropriate orders appointing the petitioner as the Sherishtadar, with effect from 5.3.2010 with all further promotions, service conditions and monetary benefits arising there from, within a time frame as may be fixed by this Court, the petitioner has come forward with the present writ petitions.

2. Since common facts and issues involved in these writ petitions, they are taken up together for final disposal by this common order.

3. According to the petitioner, he was recruited by the Tamil Nadu Public Service Commission as Junior Assistant and he is now working as Sheristadar in the Court of Principal District Judge, Madurai on promotion. It is the case of the petitioner that one Mrs.S.Jayanthi, 3rd respondent herein, who was originally appointed on compassionate grounds on 2.3.1983, had abandoned her service and later on her representation, she was again appointed by the second respondent as Junior Assistant by proceedings dated 23.12.1987 and her past period of absence was treated as non-duty. While so, the third respondent came to be promoted as Sherishtadar by the second respondent by proceedings dated 5.3.2010 and later as Chief Administrative Officer, Labour Court, Tirunelveli vide proceedings dated 13.3.2012. It appears that the petitioner made a representation, raising his objections that since the third respondent was re-appointed, her service has to be counted on and from her re-appointment, i.e. 23.12.1987 and not from the date of her original appointment,

i.e. 17.7.1983 and further that despite the petitioner was a Law Graduate, in a combined seniority list of all categories of staff members, the respondents 3 and 4 were placed above to him though they were juniors to him. However, by impugned proceedings, the respondents 1 and 2 rejected the claim of the petitioner.

4. Heard the learned counsel for the petitioner and perused the entire record.

5. A perusal of the proceedings dated 5.3.2010 of the second respondent, it would reveal that the respondents 3 and 4 though were not possessing Law Degree, however, the second respondent had considered them to be fit for promotion base don their merit and ability and accordingly, the 3rd respondent came to be promoted. Thereafter, it appears that the petitioner preferred an appeal before the first respondent. By proceedings, dated 26.4.2016, the first respondent has considered the claim of the petitioner and rejected with the following observation:

"In so far as the representation of S.Balasubramanian seeking for refixation of seniority is concerned, it is seen that such request is made after a period of nearly 25 years. The Appellate Authority does not propose to consider such request after such a long period of time, since such exercise would result in reconsidering the appointments or promotions made in between during such long period of 25 years. Needless to say that a person seeking the relief of refixation of seniority has to approach the concerned authority then and there without allowing various appointments or promotions to take place in the meantime. In any event, as the delay of 25 years is enormous one, the request of the petitioner seeking for fixation of seniority is rejected."

6. Admittedly, the petitioner has not questioned the seniority when the third respondent was re-appointed by the second respondent vide proceedings dated 23.12.1987. However, when she was considered for the promotion for the post of Sheristadar in the year 2010, the petitioner raised objections regarding her seniority. The first respondent has rightly rejected the claim of the petitioner on the ground that refixation of seniority after a period of 25 years would result in reconsidering the appointments or promotions made in between during such long period of 25 years. We are also of the view that such exercise at this distant point of time would certainly unsettle the settled things and hence, we are not inclined to entertain the writ petitions.

Accordingly, the Writ Petitions fail and the same are dismissed on the ground of laches. No costs. Consequently, connected WMP is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

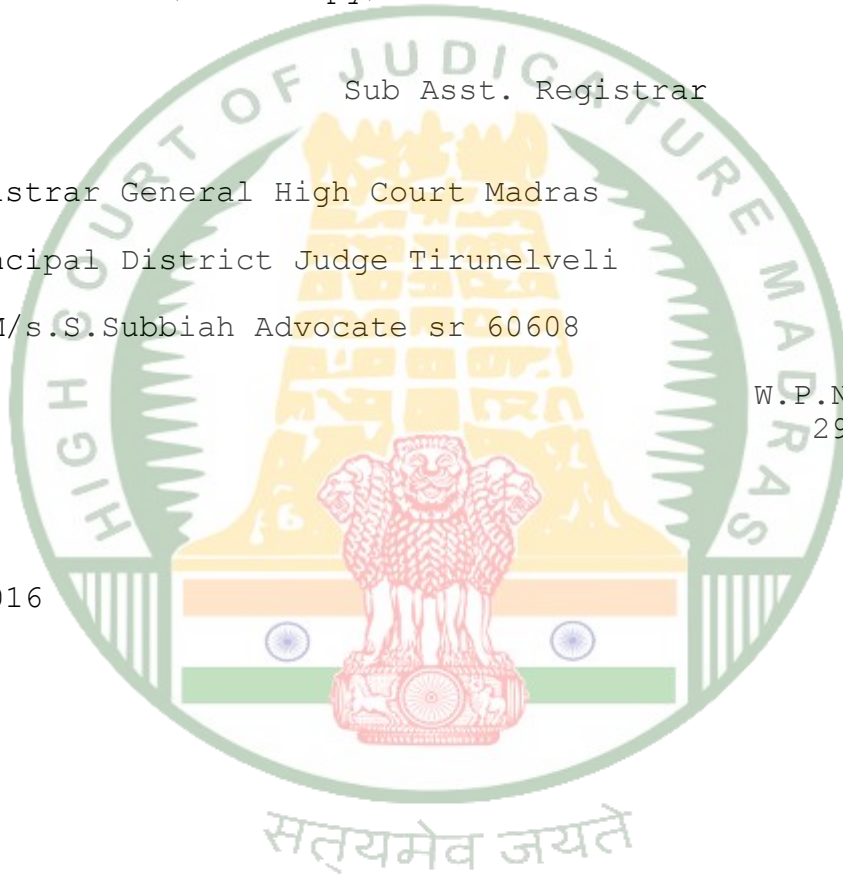
1.The Registrar General High Court Madras

2.The Principal District Judge Tirunelveli

+1 cc to M/s.S.Subbiah Advocate sr 60608

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