

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.31235 of 2016
and W.M.P.No.27105 of 2016

T.Sundarrajan

... Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by its Secretary,
Revenue Department,
Fort St. George, Chennai-9.

2. The Commissioner,
Survey and Land Records Department,
Chepauk, Chennai-5.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to fix the seniority of the petitioner in the cadre of Assistant as on date on which he was promoted / transferred to the post of Assistant namely 29.9.1988 with all consequential service and monetary benefits by considering the petitioner's representation dated 24.6.2016 within a time that may be fixed by this Court.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.R.Venkatesh,
Government Advocate

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to fix his seniority in the cadre of Assistant as on date on which he was promoted / transferred to the post of Assistant namely 29.9.1988 with all consequential service and monetary benefits by considering his representation dated 24.6.2016 within a time that may be fixed by this Court.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner was appointed as Steno-typist on 13.1.1984 on temporary basis and his service was regularized from 25.6.1984. He completed the departmental tests between 1987 and 1988 and also underwent the mandatory Survey Training Programme for 28 days between 2.3.1988 and 29.3.1988. On 29.9.1988, he was promoted / transferred as Assistant and on 3.6.2009, he was promoted as Superintendent.

(b) When the question of promotion to the post of Assistant came up for consideration, as per G.O.Ms.No.224, Personnel and Administrative Reforms Department dated 8.3.1984, the Government fixed the ratio of 4:1, as per which 4 promotional post of Assistant will be earmarked for typists and the remaining 1 post for typists / steno-typists. Challenging the same, the Typists / Steno-typists approached the Tamil Nadu Administrative Tribunal by filing T.A.No.1449 of 1989 and the Tribunal, by order dated 27.11.1982, set aside the said GO, holding that the said ratio will adversely affect the seniority already fixed by the Tamil Nadu Public Service Commission while filling up the vacancies. Thereafter, the Government by letter dated 24.10.1997, pointed out that the ratio of 4:1 will be followed for the vacancies which arose prior to 27.11.1992 and for the vacancies that arose after 22.11.1992, the inter se seniority may be fixed between the Junior Assistants and Typists / Steno-typists as per the order of the Tribunal.

(c) Aggrieved by the said letter dated 24.10.1987, O.A.No.8495 of 1997 was filed before the Tribunal and after abolition of the Tribunal, the said OA was transferred to this Court and renumbered as W.P.No.28300 of 2005 and this Court by order dated 4.4.2006 allowed the said writ petition holding that the fixation of 4:1 ratio for promotion to the post of Assistant among Junior Assistants and Typist/ Steno-typist is untenable. Assailing the said order, a writ appeal was filed in W.A.No.1145 of 2006 and the same dismissed. Thereafter, SLP was filed before the Hon'ble Supreme Court and the same was also dismissed.

(d) Even during the pendency of the said litigation, the petitioner submitted repeated representations and in response, the first respondent issued letter dated 24.6.2004, wherein it was stated that since the petitioner was promoted to the post of Assistant by transfer from the post of Steno-typist, as per the procedure for appointment indicated in Tamil Nadu Ministerial Service, if there are two method of recruitment, then as per Rule 35(aa) of the General Rules, the petitioner's seniority has to be fixed in the cadre of Assistant. Further, the second respondent was directed to fix his seniority accordingly in the cadre of Assistant. However, in spite of such Government letter dated 24.6.2004, the second respondent has not fixed his seniority. In this regard, the petitioner sent a representation

dated 24.6.2016 to the respondents. Since the same has not been considered so far, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submission made on either side, this Court directs the respondents to consider the representation of the petitioner dated 24.6.2016 seeking fixation of his seniority in the cadre of Assistant as on date on which he was promoted / transferred to the post of Assistant namely 29.9.1988 with all consequential service and monetary benefits and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the respondents to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Secretary,
Government of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai-9.

2. The Commissioner,
Survey and Land Records Department,
Chepauk, Chennai-5.

+1cc to Mr.P.Ganesan, Advocate, S.R.No.51372
+1cc to the Government Pleader, S.R.No.51329

W.P.No.31235 of 2016

TM(CO)
CA(23/09/2016)