

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.11.2016
CORAM
THE HONOURABLE MR. JUSTICE R.SUBBIAH
Writ Petition No.40044 of 2016

S.Devarajan

.. Petitioner

Vs

- 1 The Government of Tamilnadu
rep by Principal Secretary to Government
Finance (T&A) Department Secretariat
Chennai-600 009
- 2 The Commissioner of
Treasuries and Accounts Chennai-600 015

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the 2nd respondent to include the name of the petitioner in the appropriate place in the panel of superintendent fit for promotion to the post of Assistant Treasury Officer / Senior Superintendent for the year 2009-10 approved in Pro.Pdl. No.180/ 09/ N2 dated 27.01.2010 by the 2nd Respondent and to notionally promote the petitioner to the said post with retrospective effect from the date of such promotion of immediate junior and to direct the 1st respondent to issue consequential directions to include the name of the petitioner above his immediate junior included in the approved panel for promotion as additional Treasury Officer for the year 2013-14 as issued in G.O.Ms. No.84 Finance (T&A.1) Department dated 25.3.2014 of the first respondent and to notionally promote the petitioner as Additional Treasury Officer with retrospective effect from the date of promotion of his immediate junior and to grant him all consequential benefits including refixation of retirement and pensionary benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.K.Dhananjayan,
Spl. Govt. Pleader.

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 second respondent to include his name in the appropriate place in the panel of Superintendent fit for promotion to the post of Assistant Treasury Officer / Senior Superintendent for the year 2009-10 approved in Pro.Pdl. No.180/ 09/ N2 dated 27.1.2010 by the second respondent and to notionally promote him to the said post with retrospective effect from the date of such promotion of immediate junior and to direct the first respondent to issue consequential directions to include his name above his immediate junior included in the approved panel for promotion as Additional Treasury Officer for the year 2013-14 as issued in G.O.Ms.No.84 Finance (T&A.1) Department dated 25.3.2014 of the first respondent and to notionally promote him as Additional Treasury Officer with retrospective effect from the date of promotion of his immediate junior and to grant him all consequential benefits including refixation of retirement and pensionary benefits.

3. It is the case of the petitioner that initially, he was appointed as Junior Assistant on 25.6.1984 and then, promoted as Assistant / Accountant on 26.2.1992 and as Superintendent / Sub Treasury Officer on 17.8.2007 and as Senior Superintendent / Assistant Treasury Officer on 10.12.2010. After attaining the age of superannuation, he retired from service on 30.1.2015. Now, the grievance of the petitioner is that even though he was senior to one N.Karthikeyan in the cadres of Junior Assistant, Assistant / Accountant, Superintendent / Sub Treasury Officer, his name was not included in the panel for promotion as Senior Superintendent / Assistant Treasury Office for the year 2009-10 and the name of the said N.Karthikeyan was included at Sl. No.109 in the said panel. However, the name of the petitioner was subsequently included only in the said panel for the year 2010-11 at Sl.No.43, on the ground that he had not completed one year of service in the Sub Treasury Office as on 1.4.2009 being the crucial date for the said panel. Absolutely, there is no lapse on his part in not acquiring the said service qualification and hence, he preferred representations to the second respondent for empanelment and promotion with retrospective effect. The authorities had not followed any specified norms in posting the Superintendents as Sub Treasury Officers in accordance with the seniority option. Subsequently, the Government approved the panel for promotion as Additional Treasury Officer for the year 2013-14 in G.O.Ms.No.84, Finance (T&A.1) Department, dated 25.3.2014, in which the name of the petitioner's junior has been included in the said panel at

Sl.No.15. At the time of approval of panel, the petitioner was in service and hence, his name ought to have been included in the said panel above the said N.Karthikeyan. In this regard, he sent a representation dated 9.2.2016 to the respondents. But, the same was not considered so far. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that similarly placed persons like that of the petitioner approached this Court by filing a writ petition in W.P.No.1141 of 2009 and this Court, by order dated 17.4.2009, allowed the said writ petition, which was also confirmed in W.A.No.1747 of 2009 by judgment dated 24.2.2010. Followed by the same, the Government has implemented vide G.O.(2D) No.138, Finance (AA2) Department dated 25.10.2010. Since the petitioner is also similarly placed person, he is also entitled for the same.

5. I have also heard the learned Special Government Pleader, who has taken notice on behalf of the respondents.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the petitioner to send a fresh representation along with a copy of this order to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the said representation seeking inclusion of his name in the appropriate place in the panel of Superintendent fit for promotion to the post of Assistant Treasury Officer / Senior Superintendent for the year 2009-10 and pass appropriate orders, on merits and in accordance with law and in the light of the order of this Court dated 17.4.2009 made in W.P.No.1141 of 2009 (S.Balakrishnan v. The Director of Treasuries and Accounts, Chennai and another) and also in the light of G.O.(2D) No.138, Finance (AA2) Department dated 25.10.2010, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

sbi

To

- 1 The Principal Secretary to Government
The Government of Tamilnadu
Finance (T&A) Department Secretariat
Chennai-600 009
- 2 The Commissioner of
Treasuries and Accounts Chennai-600 015

+1 cc to Mr.M.Ravi Advocate sr 65648

+1 cc to Government pleader sr 66118

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