

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.41971 of 2016

M.Dhanalakshmi

... Petitioner

vs.

The Director of Public Libraries,
Chennai-600 002.

... Respondent

Writ Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the respondent to consider and pass appropriate orders on the representation of the petitioner dated 05.04.2016 to fix her pay on par with his junior Velus Rose and to grant monetary benefits w.e.f. 14.02.2011.

For Petitioner : Mr.S.Selva Thirumurugan

For Respondent : Mr.C.Jagadish,
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 respondent to consider and pass appropriate orders on the representation of the petitioner dated 05.04.2016 to fix her pay on par with his junior Velus Rose and to grant monetary benefits w.e.f. 14.02.2011.

3. The case of the petitioner is as follows:

(a) The petitioner entered into service as Grade III Librarian on 16.04.1988 and thereafter, promoted as Grade II Librarian on 29.07.2006, subsequently as Grade I Librarian w.e.f. 14.02.2011. The Post of Grade-I Librarian is an equivalent post to Inspector of Libraries.

(b) One Mr.D.Velus Rose, who is junior to the petitioner, was appointed as Grade III Librarian on 16.11.1988, whereas the petitioner joined as Grade III Librarian on 16.04.1988. Mr.Velus Rose was granted promotion as Grade I Librarian on 02.01.2003 itself, whereas the petitioner was promoted as Grade II Librarian on 29.07.2006 and as Grade I Librarian belatedly on 14.02.2011.

(c) In Public Libraries Department in the State of Tamil Nadu, Districtwise seniority was being followed and an attempt to bring Statewide seniority was made by the Government by way of G.O.Ms.No.1735 dated 11.12.1989 and the same came to be challenged by the affected persons before the learned Tamil Nadu Administrative Tribunal in O.A.No.1370/1990 and batch of cases. The Tribunal directed that the implementation of the single unit should be with reference to the date of issue of the said Government Order dated 11.12.1989 and issued certain directions. The Government preferred a Special Leave Petition to the Supreme Court in SLP (C) No.14519/1992 and batch and the same came to be dismissed on 29.04.1994. Thereafter, with an inordinate delay, the Government issued Adhoc Rules for temporary post of Inspector of Libraries, Librarian Grade I, Librarian Grade II, Stock Verification Officer, Librarian etc. in G.O.Ms.No.60 dated 27.04.2006 under Article 309 of the Constitution of India and the said rules shall be deemed to have come into force on 01.04.1982. A state level seniority list was released on 29.08.2006. Thereafter, the said list was not considered and a fresh seniority list dated 02.05.2007 was issued.

(d) While so, challenging the seniority list dated 02.05.2007, one Mrs.Nirmala and others filed W.P.No.24947/2007 and etc. batch on the ground that the same was not in consonance with the common order passed by the Tamil Nadu Administrative Tribunal in O.A.No.1370/1990 and etc. batch which was confirmed by the Hon'ble Supreme Court of India and to revise the seniority as per the previous list dated 29.08.2006. By judgment dated 08.04.2009, this Court quashed the seniority list dated 02.05.2007. The ultimate result was that the beneficiaries of Districtwise seniority were directed to be reverted. Aggrieved over the same, W.A.No.1173 of 2010 and etc. batch came to be filed and by a common judgment dated 20.09.2010, the Division Bench of this Court issued the following directions:

(i) The appellant shall prepare a draft statewide seniority list of librarian grade I/Inspector of Libraries within a period of two weeks from the date of receipt of a copy of this order;

(ii) The appellant shall publish the statewide seniority list by bringing to the notice of all the Librarians/Inspector of Libraries and all other persons who may be aggrieved through the District Library Officers;

(iii) The Librarians/Inspector of Libraries and other persons aggrieved shall submit their objections, if any, to the Draft Seniority List, within a bit of two weeks from the date of publication of the draft Seniority List; and

(iv) On receipt of those objections, the appellant shall consider the same and publish the final seniority list within four weeks from the date of receipt of the objections from aggrieved persons.

(e) Thereafter, a Clarification was sought for by the 2nd parties to the proceedings in W.A.No.1173 of 2010 and the same was also clarified on 06.12.2010. As per the clarification, the petitioner/appellant shall prepare a statewide seniority list of librarian Grade II and Librarian Grade I/Inspector of Libraries within a period of two weeks from the date of receipt of a copy of that clarification order and proceed with the matter accordingly. Consequent to the above mentioned orders passed by this Court, the reversion of the beneficiaries of the Districtwide Seniority was inevitable. Accordingly, Mr.D.Velus Rose faced reversion.

(f) The challenge to the Statewide Seniority was dismissed by this Court and the Districtwide Seniority Beneficiaries approached the Supreme Court in Civil Appeal Nos.1104-1007/2015 and 1108/2015 in which the Supreme Court passed a final order on 21.01.2015 that the 9 persons who had preferred the Special Leave Petitions will not be affected by the clarification of the order. It also issued a direction directing the appellants therein to avail the benefits of the concession order. It was further clarified that the grant of any benefit to the appellants before the Supreme Court will in no way cause any prejudice to the persons who are entitled to get benefit of the clarification order. Now, it is settled that Statewide Seniority has to be followed in the department w.e.f. 11.12.1989. Hence, the petitioner submitted a representation on 05.04.2016 to the respondent to fix his pay on par with his junior Velus Rose and to grant monetary benefits w.e.f. 14.02.2011. But, till date, no order has been passed on the said representation. Hence, the present Writ Petition.

3. Heard the learned Counsel for the petitioner and the learned Special Government Pleader who has taken notice on behalf of the respondent.

4. Considering the facts and circumstances of the matter, without going into the merits of the claim made by the petitioner, this Court directs the respondent to consider the representation of the petitioner dated 05.04.2016 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.

5. With the above direction, the present writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Director of Public Libraries,
Chennai-600 002.

+1cc to Mr.S.Selvathirumurugan, Advocate Sr.70272
+1cc to the Government Pleader Sr.71253

W.P.No.41971 of 2016

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