

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.42452 of 2016

T.Devahi

... Petitioner

Vs

1 The Director of Public
Libraries Chennai-600002.

... 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 1.8.2016 to fix his pay on par with his Junior Velus Rose and to grant monetary benefits with effect from 15.2.2011.

For Petitioner : Mr.S.Selvathirumurugan
For Respondent : Mr.V.Anandhamoorthy,
Addl. Govt. Pleader (Edu.)

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 her representation dated 1.8.2016 to fix her pay on par with her Junior Velus Rose and to grant monetary benefits with effect from 14.2.2011.

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

(a) The petitioner entered into service as Grade III Librarian on 1.10.1988 and thereafter, promoted as Grade II Librarian on 8.3.2005. Subsequently, she was promoted as Grade

I Librarian with effect from 14.2.2011. The post of Grade I Librarian is an equivalent post to Inspector of Libraries.

(b) One D.Velus Rose, who is junior to the petitioner, was appointed as Grade III Librarian on 16.11.1998 whereas the petitioner joined as Grade III Librarian on 1.10.1988. The said Velus Rose was granted promotion as Grade I Librarian on 2.1.2003 itself whereas the petitioner was promoted as Grade II Librarian on 8.3.2005 and as Grade I Librarian belatedly on 14.2.2011.

(c) In Public Libraries Department in the State of Tamil Nadu, Districtwide 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 of 1990 along batch of cases. The Tribunal directed that the implementation of the single unit should be with reference to the date of issuance 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 along with batch and the same came to be dismissed on 29.4.1994. 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 1.4.1982. A state level seniority list was released on 29.8.2006. Thereafter, the said list was not considered and a fresh seniority list dated 2.5.2007 was issued.

(d) While so, challenging the seniority list dated 2.5.2007, one Nirmala and others filed W.P.No.24947 of 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 of 1990 and etc. batch which was confirmed by the Hon'ble Supreme Court and to revise the seniority as per the previous list dated 29.8.2006. By judgment dated 8.4.2009, this Court quashed the seniority list dated 2.5.2007. The ultimate result was that the beneficiaries of Districtwide 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 20.9.2010, 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 second parties to the proceedings in W.A.No.1173 of 2010 and the same was also clarified on 6.12.2010. 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, the said 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 of 2015 and 1108 of 2015 in which the Hon'ble Supreme Court passed a final order on 21.1.2015 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 Hon'ble 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 with effect from 11.12.1989. Hence, the petitioner submitted a representation on 1.8.2016 to the respondent to fix her pay on par with her junior Velus Rose and to grant monetary benefits with effect from 14.2.2011 and till date, no order has been passed on the same. Hence, the present Writ Petition.

3. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader (Education), who has taken notice on behalf of the respondent.

4. 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 respondent to consider the representation of the petitioner dated 1.8.2016 seeking fixation of her pay on par with her Junior Velus Rose and to grant monetary benefits with effect from 14.2.2011, 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. The present writ petition is disposed of accordingly. No costs.

sbi

Sd/-

Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1 The Director of Public
Libraries Chennai-600002.

+1 CC Government Pleader SR.No.71684

+1 CC Mr.S.Selvathirumurugan Advocate SR.No.71734

W.P.No.42452 of 2016

PPA [CO]
MSI 12/01/2017

सत्यमेव जयते

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