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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
and

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Appeal (MD) No.1076 of 2016

and

C.M.P. (MD) No.6499 of 2016

V.Raja

... Appellant/Petitioner

-Vs-.

1.The State of Tamil Nadu

Represented by its Principal Secretary,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 001.

2.The Commissioner of Food Safety

and Drug Administration Department,
359, Anna Salai,
Chennai - 600 006.

3A.Bose

... Respondents/Respondents

Appeal filed under Clause 15 of Letters Patent praying to allow the appeal and set aside the order dated 22.06.2016 in W.P.(MD) No.10465 of 2016.

Prayer in WP(MD)No.10465/2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus by calling for the records pertaining to the impugned seniority list dated 6.6.2016 in RNO.3406/2016/S1/FSSA issued by the 2nd respondent and quash the same as illegal and consequentially grant special grade to the petitioner within a period of 15 days.

For Appellant : Mr.G.R.Swaminathan
for M/s.T.Antony Arul Raj

For Respondents : Mr.M.Govindan
1 and 2 Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by **NOOTY.RAMAMOHANA RAO,J**)

The Writ Petitioner has appealed before us not so much aggrieved by the order passed by the learned Single Judge but aggrieved essentially by the improper treatment which he has received at the hands of the official respondents. Sans all other unnecessary details, the controversy has centered around the communication dated 06.06.2016 sent by the Commissioner of Food Safety and Drug Administration, Chennai, when he has drawn a list of officers arranging them in a particular order and then titling it as Food Safety Officers' seniority list. In



common parlance, a seniority list is normally reflective of the *inter se* standing amongst employees occupying same category of posts, class of posts, or same grade of the post. The seniority list is invariably arranged in the descending order by placing the senior most employee at the top and the junior most employee at the bottom. For preparation of the seniority list, the relevant date is normally taken as a date of appointment/promotion/transfer to the particular post concerned. In the instant case, the objections raised by the writ petitioner/appellant was that people who have been appointed to the post nearly 8 to 10 years after his appointment have all been arrayed at a higher position, while his name has been shown down below.

2.The learned Special Government Pleader has assured this Court on the previous occasion as well as on this occasion that the present list is essentially intended to be utilised for regulating the transfer process so that the counselling of effective annual transfers can be carried out. We quite appreciate the logic behind the submission of the learned Special Government Pleader for purpose of exercising counselling of transfers of Government servants, only an eligibility list will be drawn inasmuch as all servants in the cadre need not be subjected to transfer at one time. Normally, the Government subjects those servants who have completed three years of service at one particular place to a transfer. That was to ensure that no vested interest are developed at the place where one is stationed. Therefore, the servants who may not have completed three years tenure, say for instance, who have completed only one year or two years, may not find their names included in the eligibility list for transfer counselling. Therefore, preparation of a list containing the names of the officers for purpose of undertaking transfer counselling is intended to serve a different purpose. It cannot be treated as a seniority list of the officers reflecting their *inter se* position. Therefore, the choice of expression used by the Commissioner of Food Safety and Drug Administration in his proceedings dated 06.06.2016 is an erroneous one and inappropriate one. Instead, the Commissioner of Food Safety and Drug Administration shall treat this list as the 'eligibility list for transfer counselling' and shall not treat the same as 'seniority list' and on the other hand, he shall prepare the seniority list adopting the normal procedure reckoning the earliest date of appointment/promotion/transfer to the post concerned, as the relevant factor for preparation of the seniority list in the descending order. It is no doubt obligatory before any such seniority list is published, it must precede with a provisional seniority list inviting objections and thereafter finalising those objections only a final seniority list be published but not unilaterally. Excepting this observation with regard to the proceedings dated 06.06.2016, we are not inclined to object the transfer counselling procedure which has already been followed. We only hope and trust that when the next round of counselling for transfers is taken up, a proper list would be drawn by the Commissioner of Food Safety and Drug Administration and acted upon.



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3. With this, the Writ Appeal is disposed of. No costs.
Consequently, the connected miscellaneous petition is closed.

Sd/

Assistant Registrar(CS-II)

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Sub Assistant Registrar

To

1.The Principal Secretary,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 001.

2.The Commissioner of Food Safety
and Drug Administration Department,
359, Anna Salai,
Chennai - 600 006.

+1cc to M/S.T.Antony Arul Raj, Advocate in SR.No.36995

+1cc to Special Government Pleader in SR.No.37158

Writ Appeal (MD) No.1076 of 2016
14.07.2016

SRM

PA/NGM-MP/SAR I/18.07.2016/3P/5C