



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.13828 of 2011

and

M.P. (MD) No.1 of 2011

G.Kumar

... Petitioner

-vs-

1.The State of Tamil Nadu
rep.by its Principal Secretary to Govt.,
Home (Tr.IV) Department
Secretariat, Fort St.George
Chennai-600 009

2.The Transport Commissioner
Ezilagam, Chepauk
Chennai-600 005

3.K.Ramesh Babu
Assistant Accounts Officer
Regional Transport Office
Tirunelveli

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records on the file of the second respondent in connection with the impugned seniority panel in the post of Assistant drawn by him in his Proc.No.74609/R3/2010 (E.O.No.341/2011), dated 25.10.2011 and quash the same as illegal and arbitrary in so far as the petitioner is concerned and consequently direct the respondents to include his name in Serial No.95-A i.e.above than his junior Mr.K.Ramesh Babu at Serial No.96 and consider his case for promotion to the post of Superintendent for the year 2011-2012 within the time stipulated.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.S.Bharathi,
Govt. Advocate for R1 & R2
R3 - No appearance

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the impugned seniority panel list, in Proc.No.74609/R3/2010 (E.O.No.341/2011), dated 25.10.2011, for the post of Assistant prepared by the second respondent, insofar as the petitioner is concerned and to direct the respondents to include his name at Serial No.95-A i.e. over and above his junior K.Ramesh Babu at Serial No.96 and consider him for promotion to the post of Superintendent for the year 2011-2012 within the time stipulated.

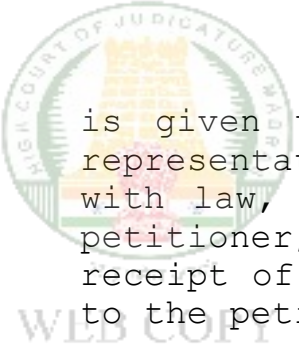
2. The petitioner was appointed as a Junior Assistant on 08.09.2000. He had completed his probation and it was declared on 19.04.2004 with effect from 02.11.2002. When a panel was prepared for promotion to the post of Assistant, the second respondent vide proceedings in Proc.R.No.R2/43996/2005 (E.O.No.6/2005), dated 04.01.2006, had deferred the name of the petitioner for certain reasons and not included his name in the panel fit for promotion as Assistant for the year 2005-2006. Thereafter, the petitioner was promoted as Assistant on 15.10.2010.

3. The petitioner did not complete Bhavanisagar Training and therefore, by order, dated 29.10.2010, his probation was extended upto 07.04.2003, which resulted in delaying his promotional prospects. In the meanwhile, by the impugned proceedings, dated 25.10.2011, the second respondent had published the approved seniority list of Assistant in Transport Department, wherein the name of the petitioner was included at Serial No.198. It is the grievance of the petitioner that many of his juniors were ranked as seniors to him in the list. Even though the punishment was set aside, his seniority has not been restored. Aggrieved by the action of the second respondent, he made a representation to the second respondent, on 18.11.2011, wherein he has elaborately set out the sequence of events as well as his entitlement for revision and re-fixation of his seniority above his juniors. Admittedly, the said representation is still pending.

3. The learned Government Advocate appearing for the respondents 1 and 2 submitted that the writ petitioner, without challenging the previous seniority list for the post of Assistant, cannot now seek for promotion to the post of Superintendent.

4. The learned counsel for the petitioner submitted that it would suffice if direction is given to the respondents to consider the representation of the petitioner, dated 18.11.2011, and pass orders within a stipulated time.

5. In view of the submissions of the learned counsel for the petitioner, without going into the merits of the case, a direction



is given to the second respondent to consider the petitioner's representation, dated 18.11.2011 and pass orders in accordance with law, after affording opportunity of personal hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner forthwith.

6. The writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To:

1.The Principal Secretary to Government,
Home (Tr.IV) Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Transport Commissioner,
Ezilagam, Chepauk,
Chennai-600 005.

+1 cc to M/s.G.Thalaimutharasu, Advocate in SR.No. 69259
+1 cc to The Special Government Pleader in SR.No. 68623

KRK

CSL/PV/25.11.2016: 3P/5C

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