

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.33913 of 2014 and
M.P.No.1 of 2014

M.Prema

... Petitioner

Vs.

1.The Agricultural Production Commissioner and
Principal Secretary to Government,
Agriculture Department,
Fort St.George, Chennai 600 009.

2.The Commissioner of Agriculture,
O/o.The Director of Agriculture,
Chepauk, Chennai-5.

3.The Joint Director of Agriculture,
Coimbatore.

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the second respondent in A.P.P/81536/99 dated 04.06.1999 and confirmed by first respondent in Letter No.2974/AA4(1) 2012-3, dated 10.05.2013 and to quash the same and consequently direct the respondents to fix the seniority of the petitioner in the post of Assistant as 67 with reference to the approved seniority list issued in the year 1978 and to promote the petitioner as Superintendent with all monetary and attendant benefits.

For Petitioner : Mrs.S.T.P.Kuilmozhi

For Respondents: Mr.T.M.Pappiah
Special Government Pleader

O R D E R

Heard Mrs.S.T.P.Kuilmozhi, learned counsel appearing for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondents.

2.The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorari Mandamus, to call for the records pertaining to the order of the second respondent in A.P.P/81536/99 dated 04.06.1999 and confirmed by first respondent in Letter No.2974/AA4(1) 2012-3, dated 10.05.2013 and to quash the same and consequently direct the respondents to fix the seniority of the petitioner in the post of Assistant as 67 with reference to the approved seniority list issued in the year 1978 and to promote the petitioner as Superintendent with all monetary and attendant benefits."

3. The case of the petitioner is as follows:

The petitioner was appointed as Typist on 01.08.1967 and the same came to be regularised with effect from 29.08.1969. Thereafter, when she was promoted as Assistant on 14.08.1980, she was forced to relinquish her right of promotion due to family circumstances. Thereafter, she was once again considered for promotion as Assistant and she exercised her right for promotion and she was promoted as Assistant on 15.05.1986 and her seniority came to be fixed in the post of Assistant on the basis of her promotion as Assistant on 15.05.1986. but the petitioner was not satisfied with the assignment of seniority from 1986, submitted a representation only in 1999, seeking antedated seniority from the date when she became eligible for the promotion to the post of Assistant.

4. Since the above said representation was not disposed of, She approached the then Tamil Nadu Administrative Tribunal in O.A.No.5763 of 2001, after the abolition of the Tribunal, the original application was transferred and renumbered as W.P.No.2748 of 2007. This Court disposed of the writ petition by order dated 07.12.2001, directing the first respondent to dispose of the appeal dated 12.11.1999 which was pending before the first respondent for a long period of time.

5. In pursuance of the above direction passed by this Court, the first respondent by his proceedings dated 10.05.2013, rejected the claim of the petitioner on the ground that her seniority has been assigned from the date of promotion on 15.05.1986, and therefore, she was not entitled to any antedated assignment of seniority due to the fact that earlier she had relinquished her right to be promoted as Assistant. The said rejection has been put to challenge before this Court.

6. Upon notice, learned Special Government Pleader entered appearance and filed a detailed counter. The learned counsel would submit at the outset, that the claim of the petitioner is extremely stale and belated and the same cannot be entertained at this stage. Moreover, he would submit that the impugned order passed by the first respondent is perfectly valid, since

admittedly the petitioner was promoted as Assistant only in the year 1986 and therefore, the seniority assigned to her was in order.

7. The learned counsel appearing for the petitioner would submit that the relinquishment of right was only for a particular period and the respondent had mistakenly postponed her promotion as Assistant for indefinite period and by which action, the petitioner had suffered a loss of seniority in the post of Assistant.

8. This Court has considered the rival submissions of the learned counsels for the parties and upon perusing the pleadings and materials placed on record, this Court is of the view that the issue which is raised in the present writ petition is extremely stale and belated. The matter relating to assignment of seniority for the post of Assistant relating to the year 1978 and the petitioner having been promoted only in 1986, an appeal came to be filed only in the year 1999, there was an inordinate delay in the petitioner, agitating the matter before the authority as well as before approaching the Tribunal. Moreover, by obtaining a mere direction from this Court for disposal of her appeal in 2011, cannot bring the issues alive after a lapse of several years.

9. In any event, this Court is also of the considered view that even on merits, the petitioner has no case, since admittedly the petitioner was promoted only in the year 1986 and therefore, any claim for seniority earlier than the date cannot be countenanced both in law and on facts. The assignment of seniority, it is needless to mention is only a consequence of the date of promotion being 1986, no seniority can be claimed prior to that date.

10. In the said circumstances, the writ petition lacks merits and substance. Therefore, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1.The Agricultural Production Commissioner and
Principal Secretary to Government,
Agriculture Department,
Fort St.George, Chennai 600 009.

2.The Commissioner of Agriculture,
O/o.The Director of Agriculture,
Chepauk, Chennai-5.

3.The Joint Director of Agriculture,
Coimbatore.

+ 1 cc to Mrs.S.T.P.Kuilmozhi Advocate,SR.63946

+ 1 cc to The Govt.Pleader, SR.64133

W.P.No.33913 of 2014

LRS (CO)
NR 24/10/2017



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