

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.Nos.23620 and 14019 of 2017
and

W.M.P.Nos.24811 and 15222 of 2017

W.P.No.23620/2017

- 1 Union of India rep. by the
Secretary to Government
Tourism Department
Government of Union Territory
of Puducherry Puducherry
 - 2 The Director of Tourism
Government of Union Territory
of Puducherry Puducherry
- Appellants

Vs

- 1 D.Lakshmanan
 - 2 S.Subramanian
 - 3 The Registrar
Central Administrative Tribunal Chennai
- Respondents

W.P.No.14019/2017

S.Subramanian

Petitioner

Versus

- 1 Union of India rep. by its
Chief Secretary to Government
Union Territory of Puducherry,
Tourism Department, Puducherry
- 2 The Director of Tourism
Government of Puducherry, Puducherry
3. D.Lakshmanan

4. The Central Administrative Tribunal
Rep. by its Registrar,
High Court, Chennai

Respondents

Prayer: Writ petitions filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records pertaining to the order passed in O.A.No.310/01090/ 2014 dated 28.3.2017 on the file of the Central Administrative Tribunal Madras Bench and quash the same.

For petitioners in W.P.No.23620/17 &
RR1 and 2 in W.P.No.14019/17 : Mr.R.Syed Mustafa,
Special Government Pleader (Pondy)

For R1 in W.P.No.23620/17 &
R3 in W.P.No.14019/17 : Mr.N.U.Prasanna

For R2 in W.P.No.23620/17 &
Petitioner in W.P.No.14019/17 : Mr.R.Muralidharan for
Mr.S.Sethuraman

COMMON ORDER

(Order of the court was made by HULUVADI G.RAMESH,J.)

Heard the learned counsel appearing for the parties.

2. It appears that challenging the fixation of seniority as if S.Subramanian he is senior to D.Lakshmanan and promotion given to S.Subramanian as Assistant Director on 19.2.2010, the said Lakshmanan moved the Central Administrative Tribunal and got an order in his favour. Challenging the same, the other person viz, S.Subramanian approached the High Court by filing W.P.No.9493 of 2010 and got an interim order initially, however, the said writ petition came to be dismissed. Thereafter, the said Lakshmanan was given promotion as Assistant Director (Tourism) in the year 2012, who also retired in the month of July 2014, but, after his retirement, he had pursued the matter by filing the present application before the Central Administrative Tribunal and got an order in his favour which is under challenge in both the above writ petitions, one by the Department and another by the contesting party viz., S.Subramanian.

3. The total issue revolves around the genuineness of the Community Certificate produced by S.Subramanian to the effect that he belongs to Scheduled Tribe. Whiles, it is brought to the notice of this court by the learned Special Government Pleader (Puducherry) that the District Collector, Puducherry had conducted a preliminary enquiry on the caste status of S.Subramanian and forwarded the same to the District Collector, Cuddalore for cancellation and that the stage of the enquiry

could be ascertained only by the certificate issuing authority which is not impleaded as party in the Original Application before the Tribunal. He has further submitted that the so called Scheduled Tribe Community Certificate has not yet been cancelled and the subsequent promotion of D.Lakshmanan was deferred only due to administrative reasons and there was no deliberate deviation by the officials concerned and therefore, sought for dispensing with the penalty imposed on them by the Tribunal.

4. On perusal of the records, we find that the genuineness of the Community Certificate produced by S.Subramanian is in the process of verification at State Level Committee of Government of Tamilnadu and therefore, Government of Puducherry does not have any control or authority over the cancellation of the certificate. Therefore, we are of the view that unless and until an appropriate decision is taken with regard to the genuineness of the Community Certificate of S.Subramanian, the question of seniority between the contesting parties at the relevant point of time could not be decided and hence, we make it clear that appropriate decision would be taken by the Department on receipt of reports with regard to the genuineness of the Community Certificate produced by S.Subramanian, to give retrospective effect in promotion to the contesting party viz., D.Lakshmanan, on merits and in accordance with law. The writ petitions are disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

ssk.

To:

- 1 The Chief Secretary to Government
Union of India
Tourism Department
Government of Union Territory
of Puducherry Puducherry
- 2 The Director of Tourism
Government of Union Territory
of Puducherry Puducherry

3 The Registrar
Central Administrative Tribunal Chennai

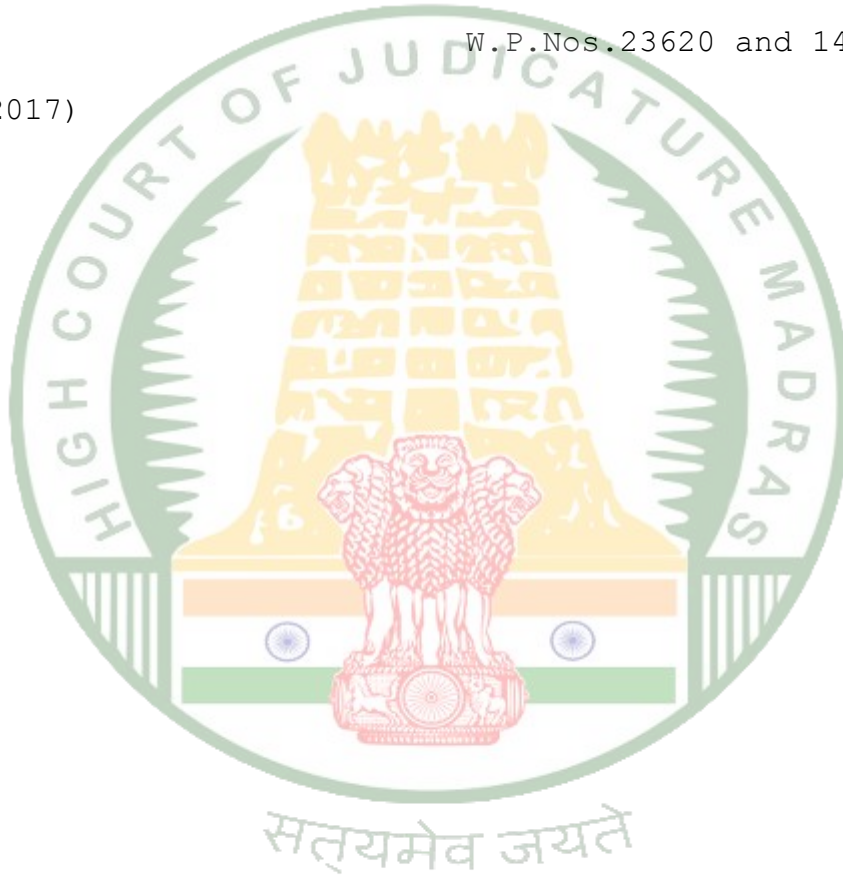
+2 Ccs to Mr.S. Sethuraman, Advocate sr 78129.

+1 Cc to Govt. Pleader sr 78849

+1 CC to Mr.R. Saravanan, advocate sr 78025.

W.P.Nos.23620 and 14019 of 2017

SP(06/12/2017)



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