

In the High Court of Judicature at Madras

Dated : 05.7.2017

Coram :

The Honourable Mr.Justice NOOTY.RAMAMOHANA RAO

and

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.33793 of 2015

R.Baskaradoss

...Petitioner

Vs

The Registrar General, High Court
of Madras, Chennai-104.

....Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to consider the petitioner's representation lastly submitted on 25.9.2015 by counting the petitioner's length of service as Section Officer and qualifications in the light of the judgments of the Honourable Supreme Court rendered in (i) Renu Mullik (Smt) v. Union of India and another [(1994) 1 Supreme Court Cases 373)]; (ii) Union of India and others v. C.N.Ponnappan [(1996) 1 Supreme Court Cases 524)]; and (iii) Scientific Advisor to Raksha Mantri and another v. V.M.Joseph [(1998) 5 Supreme Court Cases 305)] and to promote the petitioner to the post of Assistant Registrar and to grant all consequential benefits and for such other directions within the stipulated time limit.

For Petitioner : Mr.V.Chandrasekaran

For Respondent : Mr.E.K.Kumaresan

ORDER

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J)

This writ petition is instituted by a person, who has been absorbed in the service of the High Court of Madras as a Section Officer pursuant to the decision taken by the State Government to abolish the Tamil Nadu Administrative Tribunal where he was employed earlier.

2. The State Government have announced their decision specifically with regard to the absorption of the present writ

petitioner through their G.O.Ms.No.171 Personnel and Administrative Reforms (SAT) Department dated 29.6.2007. In paragraph 4 thereof, while transferring the writ petitioner's services to the High Court of Madras, four different conditions have been imposed. The important ones for our inquiry are : The relevant service rule of the High Court Service to the extent of the method of appointment is relaxed in as much as by transfer of services of the writ petitioner from the State Administrative Tribunal to the High Court service is not otherwise provided for as one of the sources of recruitment to the post of Section Officer in the High Court service. The second important condition specified by the Government is with regard to the right of seniority, which the writ petitioner can carry on his transfer to the service of the High Court of Madras. Since it will have an important bearing upon our decision, we prefer to quote it herein below :

"The seniority of the Section Officer re-deployed in the High Court, Madras will be placed below the junior most position in the respective category maintaining his seniority in the Tribunal."

3. Thus, the condition, subject to which, the service of the writ petitioner stood transferred to the High Court service, specified that he shall take the junior most position amongst the Section Officers. That condition has been challenged by the writ petitioner by instituting W.P.No.12397 of 2012. This Court, by its order dated 04.9.2014, dismissed the said writ petition along with other cases.

4. It is also the claim of the writ petitioner that he moved a review application in the said case and it is still pending.

5. It is significant to note that the said review application is at SR stage. But however, on 22.6.2013, the writ petitioner seems to have solicited consideration of his case for promotion to the post of Assistant Registrar, as he has put in 15 years of service in the Tamil Nadu Administrative Tribunal and the High Court of Madras put together and hence, his case should be considered for promotion. Without acceding to that request, certain promotions appear to have been ordered on 30.7.2013 and that order was also challenged by the writ petitioner by instituting W.P.No.30553 of 2013. That writ petition appears to have been allowed on 17.12.2014 along with the batch of other cases. However, the writ petitioner appears to have moved a review application, which is also at the SR stage to review the order dated 17.12.2014.

6. Now, the present writ petition has been instituted seeking a Writ of Mandamus to direct the respondents to consider the representation lastly submitted by the writ petitioner on

25.9.2015 for counting his past length of service as Section Officer and qualifications in the light of the judgments of the Honourable Supreme Court rendered in the cases of

(i) Renu Mullik (Smt.) Vs. Union of India & another [reported in (1994) 1 SCC 373)];

(ii) Union of India & others Vs. C.N.Ponnappan [reported in (1996) 1 SCC 524)]; and

(iii) Scientific Advisor to Raksha Mantri & another Vs. V.M.Joseph [reported in (1998) 5 SCC 305)]

and to promote the writ petitioner to the post of Assistant Registrar.

7. We are afraid, the writ petitioner is indulging in speculative litigation. In the face of condition No.3 imposed by the State Government, subject to which, his services have been transferred from the Tamil Nadu Administrative Tribunal to that of the High Court of Madras, the writ petitioner cannot seek credit for his past length of service rendered as Section Officer in the Tamil Nadu Administrative Tribunal. It is all the more so when the challenge mounted by the writ petitioner to the said condition has failed on 04.9.2014 by the order passed in W.P.No.12397 of 2012 filed by him.

8. So long as condition No.3 contained in paragraph 4 of G.O.Ms.No. 171 Personnel and Administrative Reforms (SAT) Department dated 29.6.2007 stays on record, the writ petitioner cannot seek his past length of service as a Section Officer rendered in the Tamil Nadu Administrative Tribunal to be given credit for purpose of promotion to the post of Assistant Registrar in the service of High Court of Madras. For purpose of promotion to the post of Assistant Registrar, he has to reckon his seniority based upon and with reference to the date, on which, he joined the services of High Court of Madras as Section Officer, pursuant to his transfer as such from the service of the Tamil Nadu Administrative Tribunal.

9. So long as there are seniors than him in the service of the High Court of Madras as Section Officers or in equivalent categories, ignoring the claims of such seniors, the claim of the petitioner cannot be taken up for consideration by the High Court. This apart, the High Court, on the Administrative Side, cannot review the decision taken by the State Government and contained in their G.O.Ms.No.171 Personnel and Administrative Reforms (SAT) Department dated 29.6.2007.

10. The writ petitioner is the Section Officer of the High Court. More than anyone else, he ought to have realized that the Constitutional Courts are burdened with heavy litigation and the

judicial time available is too scarce to deal with unproductive litigation. We, therefore, have no hesitation to describe the present writ petition as not only a case of mere speculative one, but, in fact is a clear example of misuse of the process of this Court.

11. We have, therefore, no hesitation to dismiss the writ petition. But, out of sheer compassion, we refrain from imposing costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

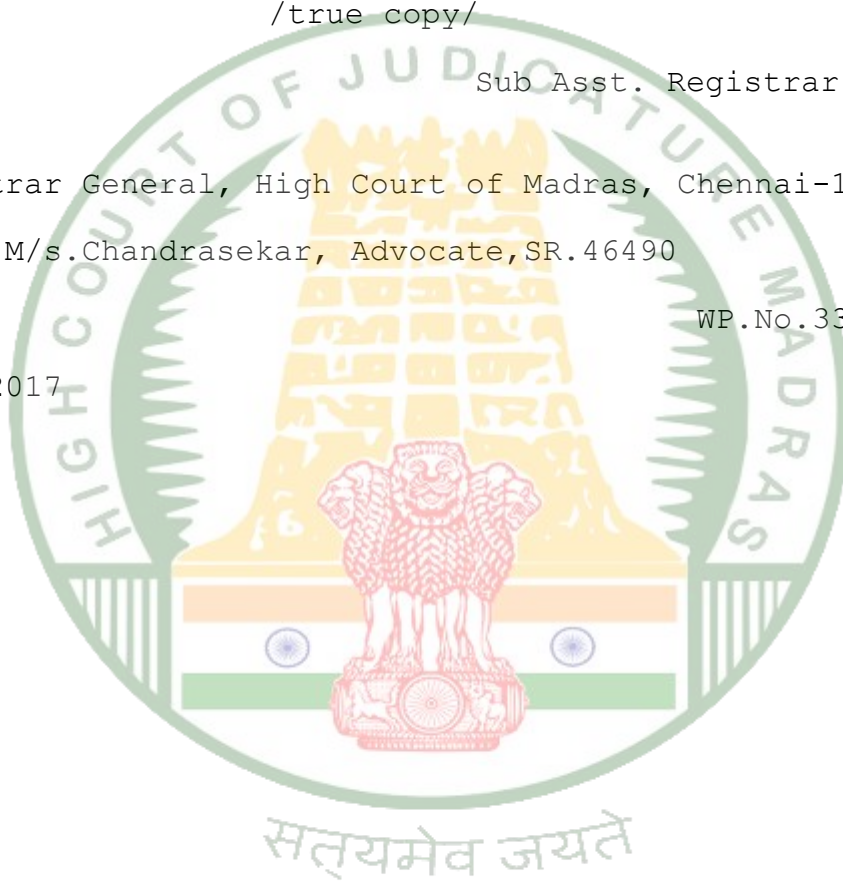
To

The Registrar General, High Court of Madras, Chennai-104.

+ 2 cc to M/s.Chandrasekar, Advocate,SR.46490

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NR 25/07/2017



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