

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2017

CORAM

THE HON'BLE MR. JUSTICE NOOTY. RAMAMOHANA RAO

and

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. No.17716 of 2013

and

M.P.No.1 of 2013

A.Sakunthala Devi .. Petitioner

Vs.

1.The Registrar General,
High Court of Judicature at Madras,
High Court Buildings, Chennai.

2.The Principal District Judge,
District Court, Ariyalur.

3.The Principal District Judge,
District Court, Perambalur.

4.P.Elangovar

5.N.Alamelu

6.M.Bhuvaneswari

7.P.Punithalakshmi

Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the second respondent pertaining to the proceedings in A.No.91 of 2013 dated 22.04.2013 signed on 23.04.2013 and quash the same and consequently direct the second respondent to fix the seniority on the basis of the original appointment of the petitioner on 01.09.1997.

For Petitioner .. Mr.P.Valliappan
For Respondents .. Mr.V.Vijay Shankar
for R1 to R3
Mr.Kandhan Duraisami
for R4 to R7

ORDER

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

This writ petition is directed against the order passed on 22.04.2013 by the learned Principal District Judge, Ariyalur, according seniority to the unofficial respondents 4 to 7 over the writ petitioner.

2.Heard Mr.P.Valliappan, learned counsel appearing for the writ petitioner and Mr.V.Vijay Shankar, learned counsel appearing for the respondents 1 to 3 and Mr.Kandhan Duraisami, learned counsel appearing for the respondents 4 to 7.

3.At the very outset, we find that it is rather unfortunate that the High Court of Madras has not been impleaded as a respondent instead its Registrar General alone has been impleaded as a respondent.

4.The writ petitioner appears to have been appointed as an Office Assistant on 10.09.1997 and was promoted as a Junior Bailiff on 22.09.1999 and as Senior Bailiff on 02.04.2007 and was further promoted as Junior Assistant temporarily on 09.06.2008 pending arrival of the candidates selected by the Tamil Nadu State Public Service Commission (for short 'TNPSC'). While she was working as a Junior Assistant on temporary basis, the respondents 4 to 7 herein came to be appointed upon their selection by the TNPSC. The respondents 4 and 5 were appointed as Junior Assistants on 27.07.2009 while the respondents 6 and 7 came to be appointed as Typists on 10.08.2009. As soon as the TNPSC allotted the candidates for appointment as Junior Assistants/Typists the need for giving them orders of appointment and necessary posting has arisen. As a consequence thereof, the Principal District Judge, Perambalur passed orders through his proceedings No.77/2009.A1 dated 15.07.2009 reverting the writ petitioner as Senior Bailiff. Thus the writ petitioner came to be reverted back as Senior Bailiff on 15.07.2009 while the respondents 4 to 7 came to be appointed for the first time as Junior Assistants on 27.07.2009 and as Typists on 10.08.2009 respectively. Thus, by the date the respondents 4 to 7 have come to be appointed as Junior Assistants/Typists, the writ petitioner was already reverted as a Senior Bailiff and she was

working as a Senior Bailiff only. It appears, Perambalur District came to be bifurcated and a new District named as Ariyalur came to be constituted with effect from 24.09.2011. But even prior thereto, when vacancies of Junior Assistant have become available, the writ petitioner came to be re-promoted as a Junior Assistant through the proceedings in A.No.108/2009 dated 10.09.2009 against the clear vacancies which became available. Thus between 15.07.2009 and 10.09.2009, the writ petitioner functioned only as a Senior Bailiff, which is inferior in status to that of Junior Assistant/Typist.

5. However, erroneously taking into account the earlier date of temporary promotion of the writ petitioner as a Junior Assistant, in the seniority list maintained for the years 2009, 2010 and 2011, her name was reflected above that of the respondents 4 to 7. It is the respondents who have brought to the notice of the Unit Head the fact that on 09.06.2008, the writ petitioner came to be promoted as Junior Assistant only on temporary basis pending arrival of the candidates selected by the TNPSC and since no vacancy has become available for granting her regular promotion as a Junior Assistant, by the time the TNPSC allotted the respondents 4 to 7 to the District Unit of Perambalur, she came to be reverted as Senior Bailiff and hence the writ petitioner cannot be treated as senior to them.

6. The only question to be answered in this case is whether the temporary promotion accorded to the writ petitioner as a Junior Assistant on 09.07.2008 would confer any right of seniority on her over and above the respondents 4 to 7 herein. There is no gainsaying that the writ petitioner came to be temporarily promoted as a Junior Assistant on 09.07.2008, a date which is earlier undoubtedly to the date of arrival of the respondents 4 to 7 upon their selection by the TNPSC, but, the order of promotion of the writ petitioner made it clear that the same is only a temporary promotion pending arrival of the candidates sponsored by the TNPSC and such temporary promotion would not confer any right on the writ petitioner. Once the TNPSC has selected and sponsored their names to be appointed on a regular basis, the writ petitioner came to be reverted on 15.07.2009 and functioned as a Senior Bailiff till 10.09.2009 when she was re-promoted as Junior Assistant. Thus her initial promotion as a Junior Assistant on 09.07.2009 is clearly against the vacancy meant to be filled in by the candidates to be selected and appointed through the TNPSC. Therefore, such temporary promotion cannot confer any right of seniority on the writ petitioner though she has been re-promoted in a short period of time thereafter i.e. on 10.09.2009 as Junior Assistant. However, for all practical purposes, her seniority in the category of Junior Assistant can only be reckoned from 10.09.2009 whereas the candidates sponsored by the TNPSC came to

be appointed on earlier dates viz., 27.07.2009 or 10.08.2009 as the case respectively be, and since those dates are earlier in point of time to 10.09.2009, no exception need be drawn to the impugned order passed by the Principal District Judge, Ariyalur according seniority to the respondents 4 to 7 over and above the writ petitioner.

7.For the aforementioned reasons, we see no merit in the writ petition and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi

To

- 1.The Registrar General,
High Court of Judicature at Madras,
High Court Buildings, Chennai.
- 2.The Principal District Judge,
District Court, Ariyalur.
- 3.The Principal District Judge,
District Court, Perambalur.

+1cc to Mr.P. Valliappan, Advocate, S.R.No.12745
+1cc to Mr.Muthumani Doraisami, Advocate, S.R.No.12786

sai (CO)
md(13/03/2017)

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