



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.08.2017
Pronounced on : 11.12.2017

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CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.833 of 2015
and
M.P. (MD) No.1 of 2015

1. The Inspector General of Registration,
120, Santhome High Road,
Chennai - 28.
 2. The District Registrar (Administration)
Madurai South,
171, Palace Road,
Madurai - 1.
 3. The Secretary and Commissioner,
Commercial Taxes and Registration
Department,
Fort St. George, Chennai - 9. ...
- Appellants/Respondents

vs.

N.Janardhanan
Respondent/Petitioner

...

Prayer : Writ Appeal filed under clause 15 of the Letters Patent, to set aside the order dated 11.04.2014 made in W.P.(MD) No.1444 of 2012 on the file of this Court.

Prayer in WP(MD)No.1444/2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned orders of the first respondent dt 15.9.09 issued in the reference No.9651/௮3/2009 and in the reference No.௮.௮.௮.௮:24699/௮3/2011 dated 04.10.11 and quash the same and direct the respondents to consider the petitioners name to include in the list for promotion as Sub-Registrar Grade-II for the year



2001-2002 and revise and refix the salary in the scale of pay applicable to the post Sub-Registrar Grade-II from 2001-2002 and granting the increments due thereafter and other benefits available as per the pay commissions report came into force subsequently and to pay the consequential arrears of salary arising thereon together with the pension payable in the light of the pay last drawn on the date of retirement on 31.05.2007.

For Appellants : Mr.T.S.Mohammed Mohideen, AGP
For Respondents : Mr.Karuppiah

JUDGMENT

(Judgment of the Court was delivered by G.R.SWAMINATHAN, J.)

The Government of Tamil Nadu has filed this intra Court appeal questioning the order dated 11.04.2014 made in W.P.(MD) No.1444 of 2012 filed by the respondent herein.

2.The respondent herein joined the registration department as Section Writer in the year 1973. He was promoted as Junior Assistant in 1981. He was promoted as Assistant on 09.10.1998. He attained the age of superannuation and retired from service as Selection Grade Assistant on 31.05.2007.

3.According to the writ petitioner, even though the post of Assistant is the feeder category for the post of Sub Registrar Grade II and promotions were given on the basis of seniority in the post of Assistant, the Tamil Nadu Administrative Tribunal in O.A.No.392 of 1989 decided that promotion to the post of Sub Registrar Grade II should be on the basis of seniority in the Junior Assistant cadre. This order dated 27.08.1993 was not disturbed by the Hon'ble Supreme Court. It is the case of the writ petitioner that since he had put in 17 years of service as Junior Assistant and he became an Assistant w.e.f. 09.10.1998, his name should have been considered for the post of Sub Registrar Grade II for the year 2001 - 2002. In this regard, he sent representations dated 21.02.2009 etc. By order dated 04.10.2011, his request was rejected. The same was challenged in W.P.(MD) No.1444 of 2012. The learned Judge by order dated 11.04.2014 took note of the fact that relief was granted in the case of similarly placed persons and allowed the writ petition as prayed for. This order is challenged in this writ appeal at the instance of the Government. The learned counsel for the writ petitioner seeks to sustain the order for the reasons set out in the order of the learned Single Judge.



by submitting representations long after he retired from service. In the affidavit filed in support of the writ petition, the writ petitioner would admit that he retired from service on 31.05.2007, but, sent his representation seeking promotion only on 21.02.2009. It may be that persons who were similarly placed persons were granted relief by the Tribunal as well as this Court. It is also seen that such decisions were implemented by the Government. Merely because the Government implemented the decisions of the Courts, as it is bound to do, it cannot lead to any accrual of rights. The similarly placed persons had knocked the doors of judicial fora at the appropriate time. If the petitioner's case was not considered for promotion to the post of Sub Registrar Grade II for the year 2001- 02, he must have moved atleast in the year 2003. He chose to wait till 2012. In case the person aggrieved does not approach the Court expeditiously for appropriate relief and puts forward stale claim and tries to unsettle matters, the High Court would be justified in refusing to exercise its discretionary power under Article 226 of Constitution of India. The writ petitioner did not work as a Sub Registrar Grade II even for one day. Therefore, he cannot be paid the salary attached to a post in which he never worked. Since the question of laches was not taken note of by the learned Single Judge, we are constrained to interfere.

5. Accordingly, this writ appeal stands allowed. The order dated 11.04.2014 made in W.P.(MD) No.1444 of 2012 is set aside and the said writ petition is dismissed. No costs. Consequently, connected M.P.(MD) No.1 of 2015 is also dismissed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector General of Registration,
120, Santhome High Road,
Chennai - 28.
2. The District Registrar (Administration)
Madurai South,
171, Palace Road,
Madurai - 1.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The Secretary and Commissioner,



Commercial Taxes and Registration Department,
Fort St. George, Chennai - 9.

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TE/SV-MMS/SAR-4 : 18/01/2018 : 3P/4C

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Judgment made in
W.A. (MD) No.833 of 2015 and
M.P. (MD) No.1 of 2015
11.12.2017