



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.02.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**
AND
THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P. [MD].No.17101 of 2014

N.Kumaresan : Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary Home (Courts) Department,
Fort St. George,
Chennai-600 009.

2.The Registrar General,
High Court of Madras,
Chennai.

3.The Principal District Judge,
Kanyakumari District,
Nagercoil.

4.Hepsi Bai
[R-4 impleaded as per the order of this Court
dated 22.01.2015, in M.P.(MD)No.1 of 2014]

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the third respondent to consider the petitioner's representations dated 06.03.2012, 01.02.2013 and 08.05.2014 and re-fix the petitioner's seniority on par with the persons appointed along with the petitioner and to pay all monetary benefits, within a time stipulated by this Court.

For Petitioner : Mr.R.Nandakumar

For Respondent No.1 : Mr.N.S.Karthikeyan,
Additional Government Pleader

For Respondents 2&3 : Mr.R.Aravindan

For Respondent No.4 : No Appearance

**O R D E R**

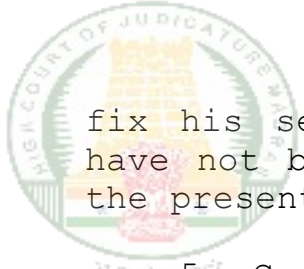
[Order of the Court was made by **R.SUBBIAH, J.**]

The petitioner has come up with the present Writ Petition seeking for the issuance of a Writ of Mandamus, directing the third respondent to consider his representations dated 06.03.2012, 01.02.2013 and 08.05.2014 and re-fix his seniority on par with the persons appointed along with him and to pay all monetary benefits, within a time stipulated by this Court.

2. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader for the first respondent and the learned counsel appearing for the second and third respondents.

3. The case of the petitioner is that he was appointed as Copyist-Typist by the learned District Judge, Kanyakumari at Nagercoil, as per proceedings in Roc.156/95, dated 20.11.1996 and he joined duty on 27.11.1996. At the time of appointment of the petitioner, 11 persons were appointed as Copyist in Kanyakumari District and all of them joined duty on the same day viz., on 27.11.1996. In spite of seniority and age, his name has been shown in the last place. Hence, he sent a representation to the third respondent on 11.03.1998 for re-fixation of seniority. However, there was no reply from the third respondent. Thereafter, his service was regularized on 12.10.2001 w.e.f. 27.11.1996.

4. While preparing the seniority list on 01.07.2004, his seniority was fixed as Sl.No.68 and one Lekha as Sl.No.59. The Government, by order dated 13.07.1979, in G.O.Ms.No.806, has stated that if the persons appointed to the service, clause, category or grade on the same day, their salary shall be decided with reference to their age. If the seniority list as on 01.07.2004 was prepared as per G.O.Ms.No.806, the seniority of one Raja Sulochana, who is the only person elder than the petitioner, ought to have been fixed as 59 and the petitioner as 60. However, his juniors have been promoted as Magistrate Court Head Clerk and they have been receiving higher pay. The grievance of the petitioner is that though he was senior than the above persons, he was working as Head Clerk and drawing salary in the pay scale of 9300-20200 plus Grade Pay Rs.4200 from 01.11.2013 and hence, he made representations to the third respondent on 06.03.2012 and 01.02.2013 for re-fixation of seniority and promotion. Thereafter, after a lapse of 1^{1/2} years, he was promoted as Judicial Magistrate Court Head Clerk on 30.10.2013 and attained superannuation on 31.05.2014 as such. Thereafter, he made several representations on 08.05.2014 to the third respondent referring to the pay anomaly, promotion and pay fixation and requested to re-



fix his seniority and promotion. Since the said representations have not been considered so far, the petitioner has come up with the present petition for the reliefs as stated above.

5. Considering the limited scope of the prayer made in the Writ Petition, without going into the merits of the claim made by the petitioner, this Court directs the petitioner to send a copy of the representations dated 06.03.2012, 01.02.2013 and 08.05.2014, along with a copy of this order, to the third respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the third respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter.

6. The Writ Petition stands disposed of in the above terms. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Secretary Home (Courts) Department,
The Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.

2 The Registrar General,
High Court, Madras

3 The Principal District Judge,
Nagercoil, Kanniyakumari District

+1 cc to MR.R.NANDAKUMAR, Advocate SR.No.10138

Order made in
W.P. [MD].No.17101 of 2014
Dated: 23.02.2017

SMA/SKN/10.03.2017:3P/5C