

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH  
and  
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

W.A.No.2318 of 2012

K.Ranganathan .. Appellant

Vs

The Secretary to Government,  
Personnel and Administrative  
Reforms Department,  
Fort St. George, Chennai - 9. ... Respondent

Appeal preferred under Clause XV of Letters Patent  
against the order dated 17.07.2012 made in W.P.No.47960 of  
2006.

Prayer in W.P.No.47960 of 2006:

Writ Petitions under Article 226 of the Constitution  
of India praying for the issuance of a Writ of Certiorari ,  
to call for the records of the Respondent in connection  
with the impugned order passed by him in Lr. No. 3526/U  
Special/2001, 31.01.2001 and quash the same and direct the  
Respondents to promote the Petitioner on par with Tr.  
Padmanaban (Now serving in the Dy. Secretary) and grant him  
all consequential service, monetary benefits.

For Appellant .. Mr.K.Venkataramani,  
Sr. Counsel Asst.By  
for Mr.M.Muthappan

For Respondent .. Ms.Thangavadhana Balakrishnan,  
Addl. Govt. Pleader

## JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This writ appeal has been preferred against the order of the learned single Judge, who, after hearing the appellant at length, was pleased to dismiss the writ petition.

2.The appellant was given a benefit under the Government Order issued in G.O.Ms.No.126 Personnel and Administrative Reforms (U.Spl) Department dated 29.05.1998. This Government Order has been passed in compliance with the order passed by the Tribunal on the earlier occasion. Accordingly, the appellant executed an undertaking to the effect that he was accepting the terms and conditions issued in the aforesaid Government Order. Thereafter, he made a representation on 18.01.2001 inter alia contending that he should be promoted as Deputy Secretary to Government on par with one Mr.M.Padmanabhan. The aforesaid request was rejected and therefore, the writ petition was filed.

3.The learned single Judge was pleased to hold that cadre which was available at the earlier point of time was bifurcated. Therefore, one Mr.M.Padmanabhan, who was working at the relevant point of time at the Finance Department cannot be considered on par with the appellant, not being in the same cadre. Thus, there is no legal right to claim promotion from the date of promotion of the aforesaid person with all consequential benefits. Accordingly, the writ petition was dismissed. Hence the present writ appeal.

4.Learned senior counsel appearing for the appellant would submit that both the appellant and the said Mr.M.Padmanabhan were appointed on the same day. Though the appellant was appointed in the Labour Department as against Mr.M.Padmanabhan in Finance Department, the appellant was senior to him. Thus once Mr.M.Padmanabhan was promoted as Section Officer in the year 1985 as against the appellant in the year 1991 and thereafter in the cadre of Under Secretary in the year 1991 as against the appellant in 2004, he being junior to the appellant, benefits will have to be given to the appellant.

5.We are not inclined to accept the contention made by the learned senior counsel appearing for the appellant.

Admittedly, the cadres are different. The appellant was working in the Labour Department as against the other person Mr.M.Padmanabhan in the Finance Department. Once the cadres become different, there cannot be any common seniority. The order passed is one time measure giving certain benefits to the persons similarly placed like that of the appellant. It is nothing but a concession given to the appellant. The appellant having accepted the abovesaid Government Order and without challenging the same, again approached this Court on the presumption that the cadres are one and the same, which is factually incorrect.

6. Let us compare the position of the appellant vis-a-vis Mr.M.Padmanabhan. Mr.M.Padmanabhan became Under Secretary in the month of October 1991 as against the appellant - 14.09.2004. Therefore, more than a decade has crossed. Similarly, Mr.M.Padmanabhan was promoted as Deputy Secretary in the month of October 2001 as against the appellant in August 2007. From November 2003 onwards, Mr.M.Padmanabhan has been working as Additional Secretary whereas the appellant attained the age of superannuation on 30.06.2008.

7. Though the Government Order was passed as early as 29.05.1998, the appellant raised his claim after accepting the said Government Order, only through the representation made on 18.01.2001. Certainly, the facts narrated above would clearly show that both the appellant and Mr.M.Padmanabhan stand on a different footing working in different departments, which admittedly did not have a common seniority list. Thus, looking from any perspective, we do not find any merit in the writ appeal. Accordingly, the writ appeal stands dismissed. No costs.

Sd/-

Assistant Registrar (CS)

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सत्यमेव जयते

Sub Assistant Registrar

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To  
The Secretary to Government,  
Personnel and Administrative  
Reforms Department,  
Fort St. George, Chennai - 9.

+1cc to Mr.M.Muthappan, Advocate SR.No. 79977

W.A.No.2318 of 2012

ASK(21/12/2018)