

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

AND

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.A. No. 878 of 2013

S. C. Mani ... Appellant/Petitioner

Vs.

1. University of Madras,
Rep. By its Vice Chancellor,
Chennai - 5

2. Registrar
University of Madras,
Chennai ... Respondents/Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 06.02.2012 in W.P. No. 3020 of 2005 on the file of this Court.

Prayer in W.P.No.3020 of 2005:

Writ Petition filed under Article 226 of the constitution of India seeking an order in the nature of Writ of Mandamus, directing the respondents 1 and 2 to give seniority to the petitioner in the cadre of Junior Assistant and consequently national promotion as Assistant and as Section Officer with due seniority on the basis of date of birth and to consider promotion of the petitioner as Assistant Registrar by considering the representation made by the petitioner dated 23.12.2004.

For Appellants : Mr. P. Ganesan

For Respondents : R1 - No Appearance
Mr. Manisundar Gopal for R2

J U D G M E N T

(Delivered by M.M.Sundresh,J.)

The appellant has originally joined as Tabulator on a temporary basis. He was thereafter appointed as Lower Division Clerk on 20.1.1975. The post of Lower Division Clerk was re-designated as Junior Assistant on 18.10.1977 and the appellant was regularized on 21.01.1978. Thereafter, he was given deemed promotion as Assistant after seven years on 20.01.1982. Accordingly, his position in the cadre of Assistant was regularized with effect from 01.06.1988. The appellant was promoted as Section Officer on 01.08.2000. The respondent was maintaining the seniority list in the Cadre of Assistant and thereafter as the Section Officer. In the year 2005, the appellant has filed the present writ petition, inter alia, contending that the seniority list has been wrongly fixed in the year 1975. The learned Single Judge, by order dated 06.02.2012 in W.P. No. 3020 of 2005, dismissed the writ petition and, hence the present appeal.

2. Learned counsel appearing for the appellant has submitted that without any basis his seniority list has been drawn and he has been placed below his juniors. Therefore, the order of the learned Single Judge would require interference.

3. Learned counsel appearing for the second respondent would submit that the appellant is trying to resurrect the issue which has become stale. His claim is also hit by the principle of delay, laches and acquiescence. The two persons whom the appellant mentions have put in 2 years and 7 months and 1 year and 9 months of service respectively on a temporary basis, whereas the appellant worked in the said capacity for only 10 months. The promotion has been given in the order of seniority recommended by the Selection Committee duly approved by the Syndicate. Hence, no interference is required.

4. We do not find any merit in this appeal. As rightly submitted by the learned counsel appearing for the second respondent, the appellant woke up from slumber in the year 2005 and approached this Court. He was given deemed promotion as Assistant on 20.01.1982. At that point of time he did not raise any issue about the promotion given earlier to others. According to him, they were juniors in the post of Junior Assistant. Thus, without any murmur the appellant accepted the promotion and

thereafter he was promoted as Section Officer on 01.08.2000. Such promotion was granted by the second respondent as per the final seniority list drawn by the Selection Committee and approved by the University Syndicate. The seniority lists in the cadre of Assistant and thereafter the Section Officer were made available at the Establishment Section for perusal of the staff members. Therefore, it is too late in the day for the appellant to raise an issue which has attained finality. At least two promotions have been given even to the appellant and much more to the private respondents. The two names mentioned by the appellant stand on a different footing, as their services rendered on a temporary basis have been taken into account and so was the case of the appellant.

5. Therefore, we do not find any merit in this appeal and the appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Vice Chancellor,
University of Madras,
Chennai - 5
2. Registrar
University of Madras,
Chennai-5.

+1cc to Mr.Mani Sundargopal, Advocate Sr.79508

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