

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10-12-2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10185 of 2006

P.Nirmala

...Petitioner

..Vs..

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Education Department, Fort St.George,
Chennai - 600 009.
2. Director of Libraries,
Anna Salai, Chennai - 600 002.
3. District Library Officer,
Trichy District, Trichy - 620 008.
4. E.Krishnamurthy
Librarian grade-I,
Trichy District Central Library,
Sethuraman colony, TVS Tollgate,
Trichy.

....Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of declaration that the proceedings of the 3rd respondent bearing Ref.No.Mu.Mu.No.8092/Aa/2004 dated 17.01.2005 in not placing the petitioner above the 4th respondent as Librarian Grade-II, thereby no inclusion of the petitioner's name by the second respondent in seniority list of Librarian Grade -I as on 01.03.2005 in the Seniority list dated 14.10.2005 as illegal, violative of Article 14,16 and 21 of the Constitution of India, contrary to the Tamil Nadu State & Subordinate Service Rules and consequently direct the 2nd respondent to restore the petitioner's seniority in Librarian Grade-II & Librarian Grade-I by placing the petitioner above E.Krishnamurthy, 4th respondent.

For Petitioner : Mr.K.M.Ramesh

For Respondents 1-3 : Mr.A.Rajaperumal
Addl.Govt.Pleader

For Respondent No.4 : No Appearance

O R D E R

The grievances of the writ petitioner is that the 4th respondent and the writ petitioner joined in the post of Librarian Grade-III in the Department of Public Libraries on 04.06.1991. Both the writ petitioner as well as the 4th respondent joined on the same date.

2. The learned counsel for the petitioner states that as per the rules in relation to in fixation of seniority, if the date of appointment falls on the same date, then the date of birth is to be the criteria for the purpose of fixation of seniority. In the present case, the date of birth of the writ petitioner is 27.09.1959 and the date of birth of the 4th respondent is 06.03.1962. Therefore, the writ petitioner must be placed above the name of the 4th respondent in the seniority list. Contrary to the said rules, the respondents No.1 to 3 has placed the writ petitioner below the name of the 4th respondent. The name of the 4th respondent is placed in Sl.No.6 and the name of the writ petitioner is placed in Sl.No.7.

3. However, the writ petitioner in this regard had submitted a representation to the 2nd respondent on 18.10.2004 and the same is yet to be considered. This Court is of an opinion that, seniority of the employees in the same cadre is to be fixed strictly in accordance with the service rules in force. The respondents in the event of the same date appointment has to follow the date of birth of the respective employees while preparing the seniority list.

4. In this view of the matter, the 2nd respondent is directed to consider the representation submitted by the writ petitioner on 18.10.2004 and pass orders on merits and in accordance with law and with reference to the rules of seniority in force within a period of 12 weeks from the date of receipt of a copy of this order. The writ petitioner is directed to enclose a copy of the representation including a fresh representation if any and the documents along with the order passed in the present writ petition.

5. Accordingly, the writ petition stands disposed of. There shall be no order as to costs.

Pkn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Education Department,
Fort St.George,
Chennai - 600 009.

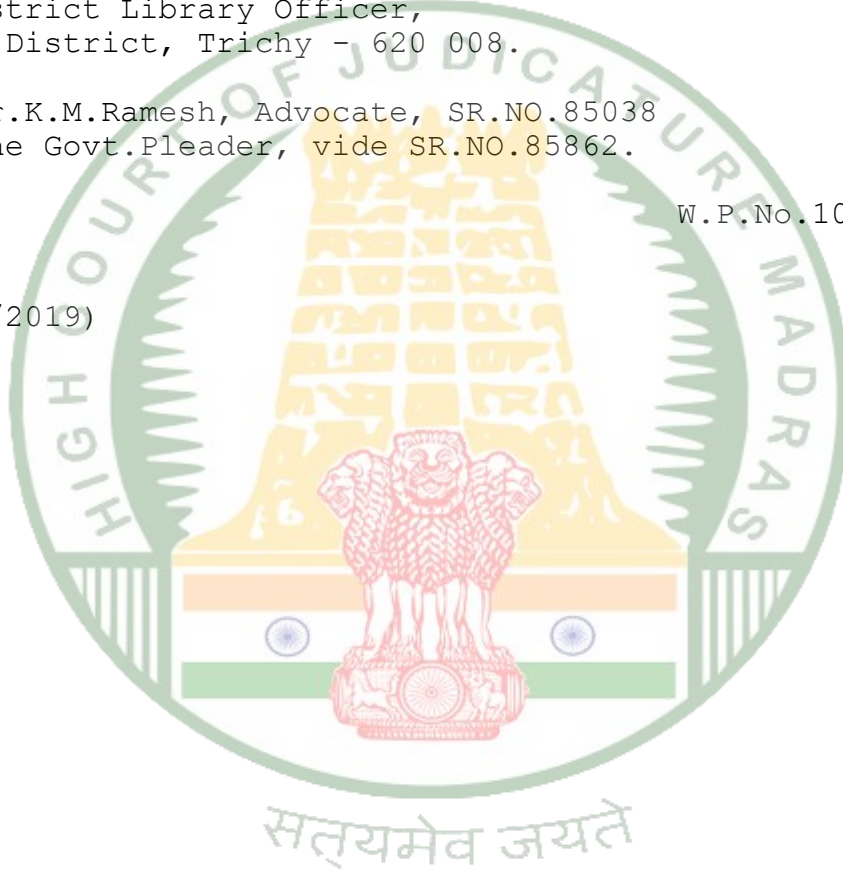
2. The Director of Libraries,
Anna Salai, Chennai - 600 002.

3. The District Library Officer,
Trichy District, Trichy - 620 008.

+1cc to Mr.K.M.Ramesh, Advocate, SR.NO.85038
+1cc to The Govt.Pleader, vide SR.NO.85862.

W.P.No.10185 of 2006

EV(CO)
KAK(08/01/2019)



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