

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.07.2018

CORAM

THE HON'BLE Mr. JUSTICE M.VENUGOPAL
and
THE HON'BLE Mr. JUSTICE M.NIRMAL KUMAR

W.P.No.17865 of 2018

P.Munuswamy

.. Petitioner

Vs

1.The Registrar General,
High Court of Madras,
Chennai - 600 104.

2.The Secretary to Government,
Tamil Nadu Law Department,
Fort St. George, Chennai - 600 009.

3.The Principal Judge,
City Civil Court,
Chennai - 600 104.

4.The Principal Judge,
Family Court, Chennai - 104.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF MANDAMUS directing the respondents to notionally promote the petitioner as Record Clerk with effect from the year 2006 and Record Assistant with effect from January 2017 placing on par with the petitioner Junior Mr.Srinivasan and pay the arrears and the retirement benefit and pay the pension which is payable to the Record Assistant on retired from service by considering the petitioner representation dated 02.08.2017 and 27.03.2018.

For Petitioner

: Mr.V.Neethidurai

For RR 1, 3 & 4

: Mr.S.Kaithamalai Kumaran

For 2nd Respondent

: Mr.K.Rajendra Prasad
Additional Government Pleader

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard the Learned Counsel for the Petitioner; Mr.S.Kaithamalai Kumaran, Learned Counsel takes notice for Respondents 1, 3 & 4 and Mr.K.Rajendra Prasad, Learned Additional Government Pleader takes notice for the 2nd Respondent.

2.It comes to be known that the Petitioner was appointed as an Office Assistant with effect from 09.12.1988 based on the Employment Office Seniority and was promoted to the post of Selection Grade Office Assistant with effect from 09.12.1998 and as Special Grade Office Assistant with effect from 09.12.2008. He was promoted as Record Clerk with effect from 10.11.2009, as per proceedings of the 3rd Respondent/Principal Judge, City Civil Court, Chennai, in R.C.O.No.272/2009/F2 dated 09.11.2009. His specific stand is that he is the senior person in the post of 'Record Clerk'.

3.The Learned Counsel for the Petitioner brings it to the notice of this Court that the Petitioner's Junior Srinivasan was appointed as Office Assistant on 17.12.1988 and he was promoted as Record Clerk in the year 2006 itself and further, he was promoted to the post of Record Assistant in January 2017. During the year 2006, when the Petitioner's Junior Srinivasan was promoted as Record Clerk, minor charge was pending against the Petitioner along with other employee of the Court in regard to the missing of Court Record and after proper enquiry, he was exonerated and the charges against him were dropped. As a matter of fact, the 3rd Respondent/Principal Judge, City Civil Court, Chennai, in his proceedings in Dis.No.553/2008/E1 in D.I.No.10/2003 dated 11.01.2008, had exonerated the Petitioner from the charges levelled against him.

4.The primordial grievance of the Petitioner is that even though he was exonerated from the charges levelled against him from the departmental enquiry, he was not considered for promotion to the post of Record Clerk in the year 2006 and during the year 2017, he came to know that his Junior Srinivasan was promoted as Record Clerk in the year 2006 itself and added further, the latter was promoted to the post of Record Assistant in the year January 2017 and when it came to his knowledge immediately on 02.06.2017, he had addressed a representation to the 3rd Respondent/Principal Judge, City Civil Court, Chennai seeking his promotion of Record Assistant. When his representation was pending, on 28.02.2018 the Petitioner was allowed to retire from service. In fact, he should have been

notionally promoted to the post of Record Clerk and as Record Assistant and placed on par with his Junior Srinivasan, now working in Principal City Civil Court, Chennai. Therefore, he prays for grant of arrears of monetary benefits in regard to his promotion to the post of Record Clerk from the year 2006 and in the post of Record Assistant from January, 2017 and pay the pensionary benefits to him.

5.It transpires that the Petitioner on 02.08.2017 had addressed a representation to the 3rd Respondent/Principal Judge, City Civil Court, Chennai for his promotion as Record Assistant on par with his Junior even though there were four vacancies. The said representation was considered till his retirement. Again, after his retirement, on 27.02.2018 he sent further representation to the Respondents praying for notional promotion as Record Clerk with effect from 2006 and Record Assistant with effect from January 2017 placing on par with his Junior Srinivasan and to pay the arrears and the retirement benefits, till date his representations have remained futile. Hence, the Petitioner has filed the present Writ Petition before this Court.

6.It comes to be known that the 1st Respondent/Registrar General, High Court, Madras in R.O.C.No.24351/2018/C1 dated 02.05.2018 had addressed a communication to the 3rd Respondent/Principal Judge, City Civil Court, Chennai seeking for the entire original material records pertaining to the representation of the Petitioner dated 27.03.2018, Service particulars of the Petitioner together with the precise Parawar Remarks for taking necessary action in the subject matter in issue. Also that, the 1st Respondent/ Registrar General, High Court, Madras had requested the 3rd Respondent/Principal Judge, City Civil Court, Chennai to strictly adhere to the instructions issued by this Court in Circular in R.O.C.No.941-A/2005/C1, dated 16.06.2005, while forwarding the material papers/records.

7.Be it noted, for a fuller and better appreciation, the Circular of this Court in R.O.C.No.941-A/2005/C1 (R.Dis.407/2005) dated 16.06.2005 issued to all the District Judges, Chief Judicial Magistrates, Principal Judge, City Civil Court, Chennai etc. (by referring to the Circular in R.O.C.No.7404/98/C1, dated 15.12.1998) reads as under:

"The attention of the Principal District Judges/District Judges is drawn to the High Court's Circular under reference cited.

In continuation of the said Circular, all the Disciplinary Authorities are further directed to send the material papers/records connected with the Appeal petition(s) submitted by the Staff member(s) duly

translated into English within a time frame preferably four months from the date of receipt without fail."

8. In view of the fact that the Petitioner had addressed a representation dated 02.08.2017 and 27.03.2018 to the 3rd Respondent/Principal Judge, City Civil Court, Chennai seeking to promote him notionally as Record Clerk with effect from 2006 and Record Assistant with effect from January 2017, placing on par with his Junior Srinivasan and pay the arrears and retirement benefits, and to pay the pension, which is payable to the Record Assistant, this Court directs the Respondents 1 and 3 to look into the representations of the Petitioner dated 02.08.2017 and 27.03.2018 within a period of two weeks from today and thereafter, to dispose of the said representations of the Petitioner dated 02.08.2017 and 27.03.2018, within a period of four weeks from the date of receipt of copy of this order.

9. It is needless for this Court to make a pertinent mention that the 3rd Respondent/Principal Judge, City Civil Court, Chennai shall look into the representations of the Petitioner dated 02.08.2017 and 27.03.2018 in an unbiased and fair manner and to pass a reasoned speaking order on merits [of course, by adhering to the Principles of Natural Justice and also providing an opportunity to the Petitioner to substantiate his case/views, by means of oral hearing, if the Petitioner so desires]. After passing final orders in regard to the Petitioner's representations dated 02.08.2017 and 27.03.2018 respectively within the time adumbrated by this Court, the 3rd Respondent/Principal Judge, City Civil Court, Chennai is directed to send a Compliance Report, by addressing a communication to the Registrar (Judicial), High Court, Madras without fail.

10. With the aforesaid observations, the Writ Petition is disposed of. No costs.

सत्यमेव जयते Sd/-

Assistant Registrar (CS-VI)

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Sub Assistant Registrar

Sgl

To

1.The Registrar General,
High Court of Madras,
Chennai - 600 104.

2.The Secretary to Government,
Tamil Nadu Law Department,
Fort St. George, Chennai - 600 009.

3.The Principal Judge,
City Civil Court,
Chennai - 600 104.

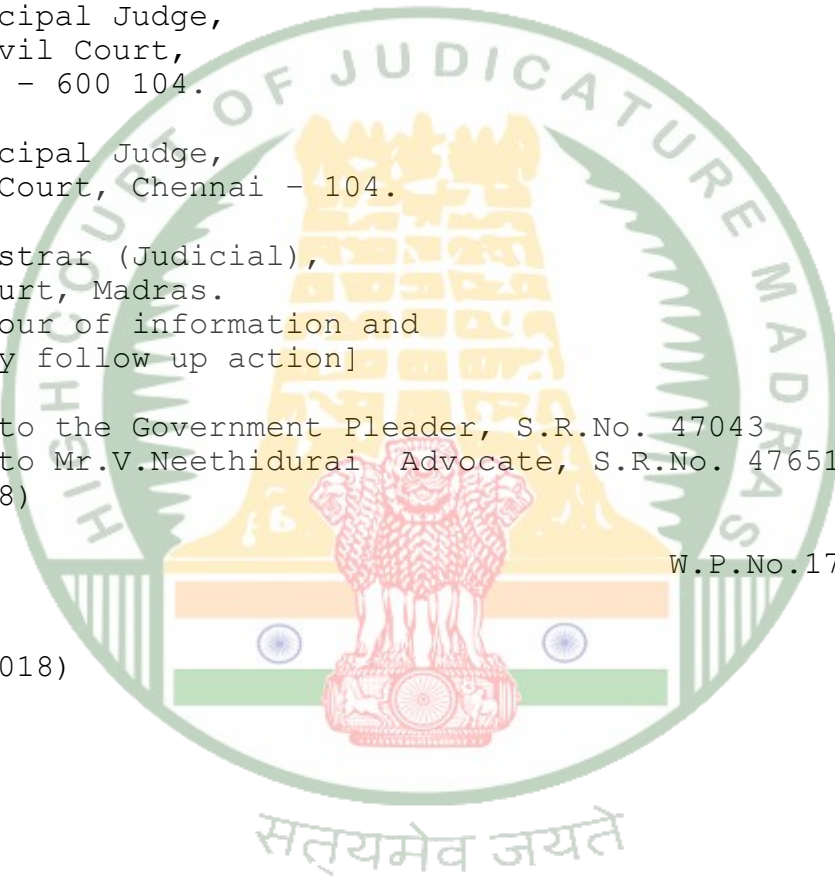
4.The Principal Judge,
Family Court, Chennai - 104.

5.The Registrar (Judicial),
High Court, Madras.
[For favour of information and
necessary follow up action]

+1cc to the Government Pleader, S.R.No. 47043
+1cc to Mr.V.Neethidurai Advocate, S.R.No. 47651
(07/08/2018)

W.P.No.17865 of 2018

BS(CO)
TR(17/07/2018)



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