

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.03.2018

CORAM

THE HONOURABLE Mr.JUSTICE SATRUGHANA PUJAHARI

W.P.No.14723 of 2013
and M.P.No.1 of 2013

S.S.Praveen Kumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Micro, Small and Medium Enterprises,
Secretariat, Chennai-9.

2.The Industries Commissioner &
The Director of Industries and Commerce,
No.36, South Central Bank Road,
Raja Annamalai Puram,
Mandavelipakkam, Chennai-28.

3.Mr.Mohd. Valiullah Sharif,
Assistant Director [NC],
Central Office,
O/o.The Principal Secretary/The Industries Commissioner &
The Director of Industries and Commerce,
Chennai-28.

4.D.Selvi Vijayarani,
Assistant Director [NC],
Central Office,
O/o.The Principal Secretary/The Industries Commissioner &
The Director of Industries and Commerce,
Chennai-28. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 and 2 to promote the petitioner as Assistant Director of Industries and Commerce w.e.f. the date on which the respondents 3 and 4 were promoted as such pursuant to order

passed by the 2nd respondent dated 28.11.2012 with all consequential monetary and service benefits.

For Petitioner : Mr.A.R.Suresh

For Respondents : Mr.K.Ravi Kumar, AGP for R1 and R2

: Mr.D.Kanagasundaram for R3 and R4

O R D E R

Heard the learned counsel for the petitioner and the learned counsel appearing for the State.

2.The grievance of the petitioner is that during the year 1986, he was appointed as Junior Assistant in Tamil Nadu Ministerial Service under General Rule 10(a)(i) and joined in the O/o.The General Manager, District Industries Centre, Cuddalore and promoted as Assistant on 26.09.1994 and further promoted as Survey and Statistical Inspector on 14.06.2005. Originally, petitioner's probation was declared w.e.f. 23.03.1988, vide proceedings of the General Manager, District Industries Centre, Cuddalore dated 05.10.1990. However, vide partial modification of the said order, the General Manager, District Industries Centre, Cuddalore issued another order dated 27.12.1993, declaring probation w.e.f. 29.10.1988 i.e. the next day on completion of Bhavanisagar training. Based on the Government Special Absorption Rule, 1987, his seniority was fixed in serial No.142, which was communicated to him, vide Memo Rc.No.166008/EB 2/93 dated 02.02.1994. Pursuant to the appeal made by one M.Udayashankar and S.Sairam, the 2nd respondent herein revised the seniority, thereby, fixing their seniority from 166 and 168 respectively to 128 and 131 respectively and the petitioner's seniority was moved down to 152, whereas the respondents No.3 and 4, whose seniority fixed in serial No.173 and 174 were brought forward to 149 and 150 respectively. Though the petitioner was promoted as Survey and Statistical Inspector on 14.06.2005, whereas the respondents No.3 and 4 were promoted on 17.06.2005 and 20.06.2005 respectively were placed at serial No.141 and 142 and the petitioner was placed at serial No.149. According to the petitioner, the said mistake was continued while fixing seniority in the cadre of Survey and Statistical Inspector also. Based on the said seniority, temporary list of Survey and Statistical Inspector for promotion as Assistant Directors was drawn vide proceedings of the 1st respondent in 30.05.2008, in which, petitioner's name was not included and the respondents No.3 and 4 were promoted. Thereafter, the petitioner has made a representation to the 2nd respondent on 09.08.2010 and 30.08.2010. The 2nd respondent issued a revised

seniority list on 28.11.2012, in which, petitioner's seniority was fixed at 138 from 152 and that of respondents No.3 and 4 were fixed at 198 and 199 from 149 and 150 respectively. Thereafter, the petitioner has made a representation on 14.12.2012 to promote him as Assistant Director in the existing vacancy, since the respondents No.3 and 4, who are juniors were promoted as Assistant Directors long back. Since no action has been taken based on the revised seniority list dated 28.11.2012, the petitioner has made a representation on 28.01.2013 and also on 17.05.2013. But no action has been taken on the same, hence, he has filed his Writ Petition seeking issuance of Writ of Mandamus directing respondents 1 and 2 to promote the petitioner as Assistant Director of Industries and Commerce w.e.f. the date of his immediate juniors, i.e. respondents 3 and 4 were promoted, with all consequential monetary and service benefits.

3.The State has filed a counter affidavit indicating receipt of such representation and also revision of seniority putting the respondents 3 and 4 below the petitioner. However, such decision having been challenged in W.P.No.26943 of 2012 and W.P. [MD] No.3291 of 2013, the grievance of the petitioner could not be considered.

4.During the course of hearing, learned counsel appearing for the petitioner submits that the aforesaid writ petitions have since been disposed of.

5.Learned counsel appearing for the State submits that they will consider the representation of the petitioner in accordance with law as hereinafter therein no impediment to consider the grievance, taking note of the order passed.

6.In such view of the matter, this writ petition stands disposed of with a direction to respondents 1 and 2 to consider the representation/grievance of the petitioner within a period of two months from the date of receipt of a copy of this order. However, this order should not be construed as expression of any opinion on the merit of the representation/grievance. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government of Tamil Nadu,
Micro, Small and Medium Enterprises,
Secretariat, Chennai-9.

2.The Industries Commissioner &
The Director of Industries and Commerce,
No.36, South Central Bank Road,
Raja Annamalai Puram,
Mandavelipakkam, Chennai-28.

RSI (CO)
sm:10.5.2018

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and
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