

8IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.1631 of 2016
and C.M.P.No.20289 of 2016

The Secretary to Government
Home (Courts VI) Department
Fort St.George
Chennai 600 009.

...Appellant

Vs

A.Nundhagopalan

...Respondent

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order passed in W.P.No.8439 of 2007 dated 03.07.2012.

WP.No.8439 of 2007:to direct the respondent to refix the seniority of the petitioner with effect from the date of first appointment i.e. 31.3.77 AN and include the name of the petitioner in the seniority list dated 26.5.98 below S1 NO 24 Thiru Bellie Bojan (24.3.77 date of joining) and above Thiru.S.Selvaraj (1.4.77 Date of Joining) by taking into account the retrospective regularisation of the appointment of the petitioner wef 31.3.77 issued in GO MS NO 532 dated 31.3.95 and give notional promotion with effect from the date of promotion given to his junior Tiru.M.V.Ramachandran with all consequential service and monetary benefits with arrears.

For Appellant : Mr.V.Anandhamurthy
Additional Government Pleader
For Respondent : Mr.Venkatapathy
for Mr. N.U.Pressanna

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The respondent was initially appointed as Assistant Public Prosecutor, Grade-II, Cuddalore, with effect from 27 March 1977. His services were subsequently regularised vide order in G.O.Ms.No.2944, Home (Courts VI) Department, dated 28 November, 1979.

2. The Government issued an order in G.O.Ms.No.532, Home (Courts VI) dated 31 March, 1995, regularising the services of the respondent with retrospective effect. The date was refixed as 31 March, 1977. However, when the seniority list was drawn, the name of the appellant was placed at Sl.No.71, taking into account his original date of regularisation. The respondent, therefore, filed a writ petition in W.P.No.8439 of 2007. The learned Single Judge opined that once the regularisation is given retrospective effect, the employee is entitled to all the statutory benefits including the right to place at the appropriate position in the seniority list. The order is under challenge at the instance of the appellant.

3. We have heard the learned Additional Government Pleader on behalf of the appellant. We have also heard the learned counsel for the respondent.

4. There is no dispute that the respondent was initially appointed on 31 March, 1977. He was regularised in service, vide order dated 28 November, 1979. The Government by order in G.O.Ms.No.532, Home (Courts VI) dated 31 March, 1995, regularised the services of the respondent with retrospective effect from 31 March, 1977. The Government made it clear that the respondent is eligible to draw arrears of pay and allowance consequent upon his regularisation of service from 31 March, 1977. Even after giving such retrospective regularisation, due seniority was not given to the respondent. The name of the respondent was included in the seniority list taking into account his date of initial regularisation notwithstanding the fact that it was given retrospective effect from 31 March 1977 subsequently.

5. The Government Order in G.O.Ms.No.532, Home (Courts VI) dated 31 March, 1995 proceeds as if the respondent is entitled to all the benefits pursuant to the retrospective regularisation given to him. Such being the factual position, the contention of the appellant that retrospective regularisation would not be applicable for seniority is not correct. The learned Single Judge considered this aspect and rightly held that the benefit of retrospective regularisation would also result in giving due seniority to the employee. We are in agreement with the views expressed by the learned Single Judge.

In the upshot, we dismiss the intra court appeal. No costs. Consequently, connected miscellaneous is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gms

To

The Secretary to Government
Home (Courts VI) Department
Fort St.George
Chennai 600 009.

+1 cc to the Govt Pleader sr 10265
+1 cc to Mr.N.U.Pressanna Advocate sr 9863

W.A.No.1631 of 2016

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