



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2018

CORAM

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHANW.P. (MD) No.2070 of 2018
and

W.M.P. (MD) Nos.2318, 2319 & 2320 of 2018

R.Sundararajan

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Ramanathapuram District.

2.A.N.Gokulnath

3.K.Ramasubramanian

4.M.Mehala

... Respondents

(R2 to R4 are impleaded vide
Court order dated 08.02.2018
in W.M.P. (MD) No.2644 of 2018)

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records passed by the respondent in Na.Ka.A2/3009/2015 dated 19.06.2015 in so far as placing the petitioner in SI.No.161 and the consequential appeal rejection order passed in Na.Ka.A2/3009/2015 dated 11.05.2016 and quash the same and consequently direct the respondent herein to re-fix the petitioner's seniority as SI.No.44(a) below Thiru S.Balakrishnan and above SI.No.45 Thiru A.N.Gokulnath in the impugned seniority list and consider the petitioner's case for promotion to the post of Deputy Tahsildar for the year 2017 with all consequential, monetary and service benefits.

For Petitioner : Mr.M.S.S.Sheik Abdullah

For R1 : Mr.M.Jeyakumar, A.G.P.

For R2 : Mr.D.Balamuruga Pandi

For R3 & R4 : No Appearance

ORDER

The writ petitioner was appointed as Revenue Assistant in Pudukkottai District on 04.01.2010. His probation was declared on 18.02.2012. The writ petitioner requested for transfer to Ramanathapuram. It was a one way transfer. In the year 2013, the petitioner joined as Revenue Assistant in Ramanathapuram District on 05.04.2013.

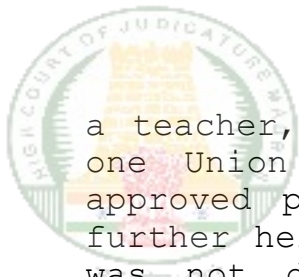
2. In the year 2015, the seniority list was published. The grievance of the writ petitioner is that he was placed even below those persons, whose probation was not declared when he joined Ramanathapuram District on 05.04.2013. In this regard, the writ petitioner filed appeal for re-fixation of seniority list. But the same was rejected. Hence, this writ petition has been filed.

3. Heard the learned counsel on either side.

4. The learned counsel appearing for the private respondents submitted that as per Rule 35(a) of the Tamil Nadu State and Subordinate Service Rules, the seniority shall be fixed with reference to the date of joining and he also pointed out that the private respondents had joined as Revenue Assistant in the year 2012 itself. On the other hand, the writ petitioner joined as Revenue Assistant in Ramanathapuram District only on 05.04.2013. Thus, as per the respective dates of joining, the writ petitioner was rightly considered as Junior and the seniority list was also finalized on that basis. He would also place reliance on the condition set out in transfer order of the writ petitioner made on 08.02.2013.

5. This Court is unable to agree with the submissions of the learned counsel for the private respondents. As rightly pointed out by the learned counsel for the petitioner a person who seeks transfer from one unit to another unit as in this case has to forego the seniority accrued in the original place. That is why in the transfer order dated 08.02.2013 a condition was incorporated to the effect that the writ petitioner will be placed at the bottom of the seniority list of approved probationers. At this stage, it is an admitted position that the private respondents herein were not approved probationers in Ramanathapuram District on 05.04.2013 when the writ petitioner joined in Ramanathapuram District. The probation of the private respondents was declared only subsequently. Therefore, the seniority ranking assigned to the writ petitioner was clearly erroneous.

6. In this regard the learned counsel appearing for the writ petitioner placed reliance on the decision of the Hon'ble Division Bench of this Court reported in 2008 *Writ L.R. 213 (A. Mani vs. The Director of Elementary Education and others)*. Paragraph 27 of the said decision is particularly relevant. The said case arose in the Education Department. The Hon'ble Division Bench observed that when



a teacher, who has completed his/her probation is transferred from one Union to another Union he/she has to be placed below the approved probationers of that Union. The Hon'ble Division Bench further held that placing such a person below those whose probation was not declared was erroneous. The case on hand absolutely similar.

7.The order impugned in this Writ Petition is quashed so far as the petitioner and the private respondents are concerned. The official respondents are directed to place the writ petitioner above the private respondents and immediately below the approved probationers as on 05.04.2013. The learned counsel appearing for the writ petitioner submitted that the writ petitioner should be assigned with serial No.44(a) in the impugned seniority list. The first respondent is directed to issue revised seniority list assigning the rank 44(a) to the writ petitioner.

8.Accordingly, this Writ Petition is allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

The District Collector, Collectorate,
Ramanathapuram District.

+1cc to Mr.D.Balamurugapandi, Advocate, SR.No.59314
+1cc to Mr.V.S.S.Ramkumar, Advocate, SR.No.58349
+1cc to The Special Government Pleader, SR.No.59035

GNS
RL/5C/3P/SKN/RSK/SAR3/16/4/2018

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