

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.A. No. 2436 of 2012

The District Collector
Panchayat Development Wing,
Erode District,
Erode

... Appellant/1st Respondent

Vs.

1. K. Raju ... 1st Respondent/Petitioner

2. I. Perumal ... 2nd Respondent/2nd Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 08.04.2010 in W.P. No. 38495 of 2006 on the file of this Court.

Prayer in WP.No. 38495 of 2006: On Transfer O.A.No. 6964 of 1999 from the file of Tamilnadu Administrative Tribunal cause to be numbered as WP. 38495/2006 with a prayer to call for the records of the respondent in Pro. No. 109004/98 PaA/3 dt. 24.9.99 quash the same in so far as it relates to the second respondent and issue directions to the respondent to promote the petitioner as Junior Assistant with retrospective effect from the date of promotion of his immediate junior with consequential benefits. सत्यमेव जयते

For Appellant : Mrs. A. Sri Jayanthi,
Special Government Pleader

For Respondents : No Appearance

JUDGMENT
(Delivered by M.M.Sundresh,J.)

There was no representation on behalf of the respondents earlier and unfortunately even today. Therefore, we are inclined to take up the matter for hearing.

2. The first respondent was appointed as Office Assistant in the year 1971 and thereafter promoted as Record Clerk in the year 1977.

3. The grievance made out by the first respondent before the learned Single Judge while challenging the impugned order is that he should be promoted above his junior. The learned Single Judge was pleased to hold that the first respondent ought to have been included in the panel for the year 1998-1999, as he acquired the requisite qualification on 15.03.1998. Accordingly, direction was issued to the appellant to include the name of the first respondent in the panel for the year 1998-1999, considering the fact that he acquired qualification on 15.03.1998 and consequently give the notional benefits arising thereof.

4. As rightly submitted by the learned Special Government Pleader the first respondent having acquired the qualification only in April 1997, he cannot be included in the list of employees eligible for promotion for the year 1997-1998 and 1998-1999. His junior I. Perumal, second respondent herein, has passed SSLC in the year 1992 as per the letter of the Tamil Nadu Public Service Commission. A person who acquired qualification as on 15th March of the year alone is eligible to be considered for inclusion of his name the next year panel. Admittedly, the first respondent has passed only in the month of April 1997. Therefore, the first respondent was not qualified to be included in the list of persons eligible for selection for the year 1997-1998.

5. In such view of the matter, we are of the view that the order of the learned Single Judge requires interference. When once cut off date is fixed, the subsequent acquisition of qualification cannot be a ground to consider inclusion of name in the panel for the relevant year. Thus, the order of the learned Single Judge is set aside and the writ appeal stands allowed. No costs. Consequently, connected M.P. No. 1 of 2012 is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

ssm

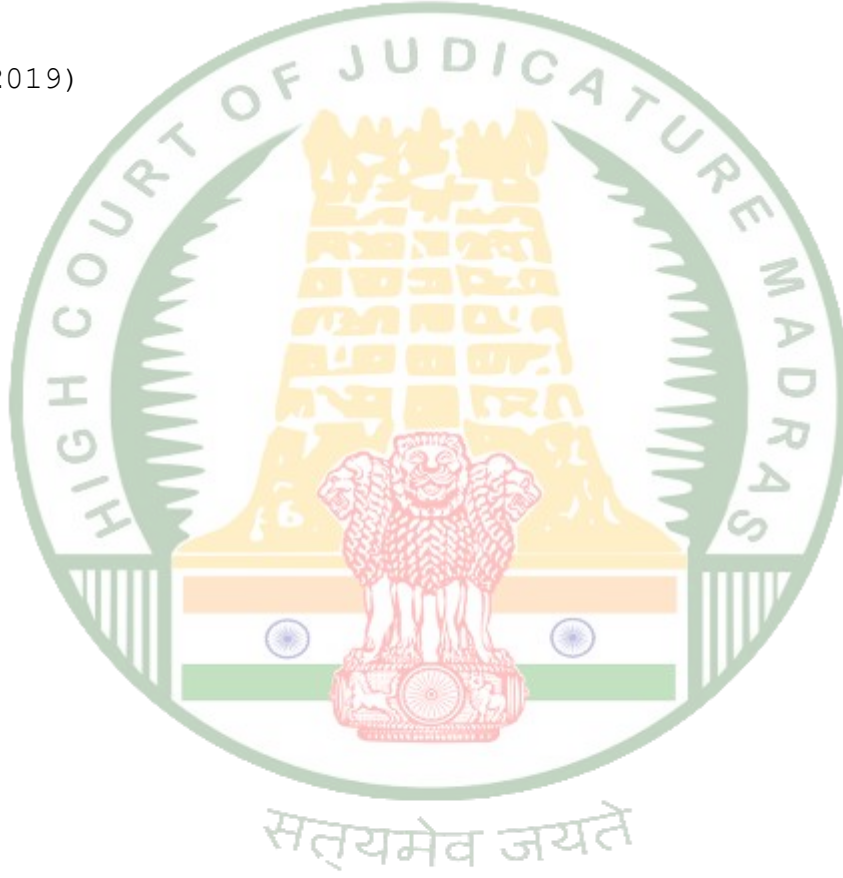
TO

1.The District Collector,
Panchayat Development Wing,
Erode District, Erode.

+1cc to the Government Pleader, S.R.No. 3976

W.A. No. 2436 of 2012

SSD(CO)
GN(15/02/2019)



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