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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.10.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.18351 of 2019
and WMP.No.17704 of 2019

1. D. Daniel
2. G. Vijaya
3. J. Selvin

..Petitioners

Vs.

1. The Secretary to Government,
Personal and Administrative Reforms
(U-Special) Department,
Secretariat, Chennai- 600 009.

2. The State of Tamil Nadu,
Represented by the Secretary to Government
Finance Department
Secretariat, Chennai-600 009.

3. The Secretary to Government,
Public (Special-A and Special-B) Department,
Secretariat, Chennai - 600 009.

4. S. Saraswathy

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus or any other appropriate writ, order or direction in the nature of a writ, directing the first, second and the third respondents herein to upgrade the posts held by the petitioners as Joint Secretary to Government with retrospective effect from 13.07.2012 and to grant all consequential benefits including stepping up of pay on par with their junior Tmt.S.Saraswathi notionally with effect from 13.07.2012 with monetary benefit on and from 01.03.2017 and to revise all retirement and pensionary benefits namely encashment of leave etc., and pension benefit or any other entitled benefits accordingly and disburse all monetary benefits to the peitioners within a limited time frame.

For Petitioners : Mr. M. Ravi

For Respondents : Mr. A.N. Thambidurai,
Special Government Pleader



ORDER

With the consent of both the parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

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2. The petitioner filed this Writ Petition seeking direction to direct the first, second and the third respondents herein to upgrade the posts held by the petitioners as Joint Secretary to Government with retrospective effect from 13.07.2012 and to grant all consequential benefits including stepping up of pay on par with their junior Tmt.S.Saraswathi notionally with effect from 13.07.2012 with monetary benefit on and from 01.03.2017 and to revise all retirement and pensionary benefits namely encashment of leave etc., and pension benefit or any other entitled benefits accordingly and disburse all monetary benefits to the peitioners within a limited time frame.

3. The case of the petitioner is that the petitioners are appointed as Assistant in the Tamil Nade Settlement Service during the years 1985 and 1986, respectively, through the Group V Service Examination conducted by the TNPSC, in Tamil Nadu Secretariat in the 'one unit' and were promoted as Assistant Section Officers in the year 1991 and as Section Officers during the year 2004 and 2005, respectively. The petitioners were further promoted to the post of Under Secretary to Government in the year 2009 and 2010, respectively.

4. While so, Tmt. S. Saraswathi who was appointed by promotion as Assistant Section Officer, three years after the petitioners' promotion to the said post was later promoted to the post of Section Officer only in the year 2007 and as Under Secretary to Government only on 09.01.2013, nearly three years after the date of the petitioners' appointment to the said post. Thus it is an indisputable fact that Tmt. S. Saraswathi who was initially appointed as Typist, ASO, SO and Under Secretary only after the petitioners' appointment. In these circumstances, the Court by order dated 08/04/2014 in W.P.No.25556 of 2013 allowed the Writ Petition by the above said Tmt.S.Saraswathi, claiming grant of all service and monetary benefits on par with her junior and as such, she is entitled to claim all the benefits on par with her junior. The petitioner immediately after coming to know of the said Judgment, the petitioners jointly made representation dated 09.05.2014 to the above mentioned authorities. They were informed that the matter was taken up on appeal and that the petitioners have to await the outcome of the same. Thereafter the Government preferred an Appeal before the Division Bench of the High Court and the same was dismissed and thereafter the SLP preferred by the Government



was also dismissed and confirmed the order of learned Single Judge of this Court. Thereafter by G.O.98 Environment and Forest dated 09.08.2017 Tmt. Saraswathi was upgraded to the post of Joint Secretary and had complied with the Judgment of the High Court and granted the benefits. In order to avail such benefit the petitioners made representation on 09.01.2019 to the competent authority, but till date not considered. Hence the present Writ Petition.

5. The leaned counsel for the petitioner would submit that it would be suffice to issue direction to the competent to consider the representation dated 09.01.2019 submitted by the petitioners, and pass order on merits and in accordance with law.

6. Mr. A.N. Thambidurai, Spl.G.P for the respondents agreed to dispose of the representation dated 09.01.2019 within a stipulated time.

7. Considering the facts and circumstances of the case and the limited request made by the petitioner, I am inclined to issue direction to the competent authority to consider the representation dated 09.01.2019 submitted by the petitioners and pass orders on merits and in accordance with law within a period of four (12) weeks from the date of receipt of a copy of the order. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government, Personal and Administrative Reforms (U-Special) Department, Secretariat, Chennai- 600 009.
2. The Secretary to Government, State of Tamil Nadu, Finance Department, Secretariat, Chennai-600 009.
3. The Secretary to Government, Public (Special-A and Special-B) Department, Secretariat, Chennai - 600 009.

+1 cc to M/s.R.Mahalingam, Advocate Sr.No. 87266

+1 cc to M/s.M.Ravi, Advocate Sr.No. 88179

+1 cc to The Government Pleader Sr.No. 87797

AKM/08.01.2020/3P-7C /

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