

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition No.39172 of 2016

R.Mohan
S/o.G.Ranganathan

...Petitioner

Vs

1.The Registrar General,
High Court, Madras.

2.The Principal District Judge,
Krishnagiri.

3.The District Munsif cum Judicial Magistrate,
Denkanikottai,
Krishnagiri.

4.K.Swaminathan

5.A.Siraj Basha

6.S.Ramachandran

7.S.Rajamani

8.G.Manjula

9.N.Periasamy

10.J.Sankaranandan Bharathi

11.R.Sowmi Narayanan

12.V.Chinnasamy

13.P.Sangeetha

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14.P.Uma Lakshmi

15.D.Bakayaraj

16.S.Hari Prasad

17.S.Prem Kumar

18.B.Shanmugam

19.V.Chithra

20.G.Saraswathy

[R4 to R20 impleaded vide order dated
29.07.2019 made in W.M.P.No.36743/16
in W.P.No.39172/16] ... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order dated 01.06.2016 in Endorsement Endt.R.3250/16 of second respondent herein and 18.09.2013 in Roc.No.275/2013-A of second respondent and quash the same and consequently, direct respondents herein to re-fix the seniority of the petitioner in the post of Junior Assistant above Thiru K.Swaminathan in the post of Assistant.

For Petitioner : Ms.AL.Ganthimathi

For Respondents: Mr.R.Vijayakumar [R1 to R3]
R4, R5 & R17 to R19 [NA - W.M.P. Stage]
Mr.Mukund [R6 to R16 & R20]

O R D E R

[Order was made by R.SUBBIAH, J]

Petitioner has filed the above Writ Petition seeking quash of the orders of second respondent dated 01.06.2016 in Endorsement Endt.R.3250/16 and 18.09.2013 in Roc.No.275/2013-A and consequently, direct respondents 1 to 3 herein to re-fix the seniority of the petitioner in the post of Junior Assistant above Thiru K.Swaminathan in the post of Assistant.

2. Petitioner's father G.Renganathan, who was working as a Record Clerk in the Court of Krishnagiri, died on 17.01.2004 due to cardiac ailment. Since he died during the course of employment, petitioner was appointed as Junior Assistant on compassionate ground by proceedings of Principal District Judge, Krishnagiri, on 01.03.2007. At the time of joining service, petitioner's educational qualification was only SSLC. A proposal for regularizing petitioner's service was made and by order dated 31.05.2012, first respondent regularized his service with effect from 02.03.2007. Petitioner has also completed the departmental examinations in December 2008. Petitioner has not been given due promotion since he has not completed the fundamental training at Bhavani Sagar and his juniors were promoted overlooking his seniority. Though the petitioner joined service in the year 2007, his services were regularized only in the year 2012. Pursuant thereto, he was sent for fundamental training at Government Civil Service Training Institute, Bhavani Sagar, as per the proceedings of Principal District Judge, Krishnagiri, dated 17.09.2012. Petitioner successfully completed his training on 07.12.2012 and by proceedings dated 19.03.2013, he was promoted as Assistant with effect from 09.03.2013. Petitioner sent a representation on 10.01.2013 to third respondent praying to re-fix his seniority from 02.03.2007 on the ground that delay in sending the petitioner for fundamental training at Bhavani Sagar is not owing to his fault. However, petitioner's representation was rejected by third respondent under orders dated 18.09.2013. Moreover, petitioner was placed under suspension on a false complaint and subsequently, the charges against him were dropped. Pursuant thereto, petitioner preferred an appeal to first respondent on 31.12.2013 praying to re-fix his seniority from the date on which his juniors were promoted in the post of Assistant. However, the same was not considered by first respondent. Again, petitioner submitted representations to respondents 1 and 2, which were also not considered. Having no other alternate remedy, petitioner approached this Court by way of this Writ Petition.

3. Heard learned senior counsel for petitioner, learned counsel for respondents 1 to 3, 6 to 16 and 20 as also perused the materials on record.

4. When the matter is taken up for consideration, learned counsel for petitioner submits that in an identical set of facts, several Writ Petitions were allowed. Learned counsel further submits that the only reason for not granting promotion to the petitioner, on par with his juniors, was that he has not completed the fundamental training at Bhavani Sagar. It is only the fault of the department in not sending the petitioner for fundamental training earlier and hence, the petitioner cannot be blamed for such delay.

5. Considering the facts and circumstances of the case, we are of the view that petitioner cannot be blamed for delay in sending him for fundamental training at Bhavani Sagar. Petitioner's service was regularised only after 5 years from the date of his initial appointment, which resulted in sending him to Bhavani Sagar Institute for fundamental training on 17.09.2012. Since the delay in regularising the petitioner's service as well as sending him for fundamental training at Bhavani Sagar has occurred only owing to administrative reasons, the petitioner cannot be denied promotion as Assistant on par with his juniors.

Accordingly, the Writ Petition is allowed. The orders of second respondent dated 01.06.2016 in Endorsement Endt.R.3250/16 and 18.09.2013 in Roc.No.275/2013-A are quashed. As a consequence, respondents 1 to 3 are directed to revise the seniority of the petitioner in the cadre of Assistant and promote him as Assistant by including his name in the appropriate panel notionally on par with his Junior Thiru K.Swamninathan. However, the petitioner is not entitled to get any arrears of salary for the promoted post and the seniority alone is to be given. The said notional promotion shall be calculated for all purpose except back wages. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Registrar General,
High Court, Madras.

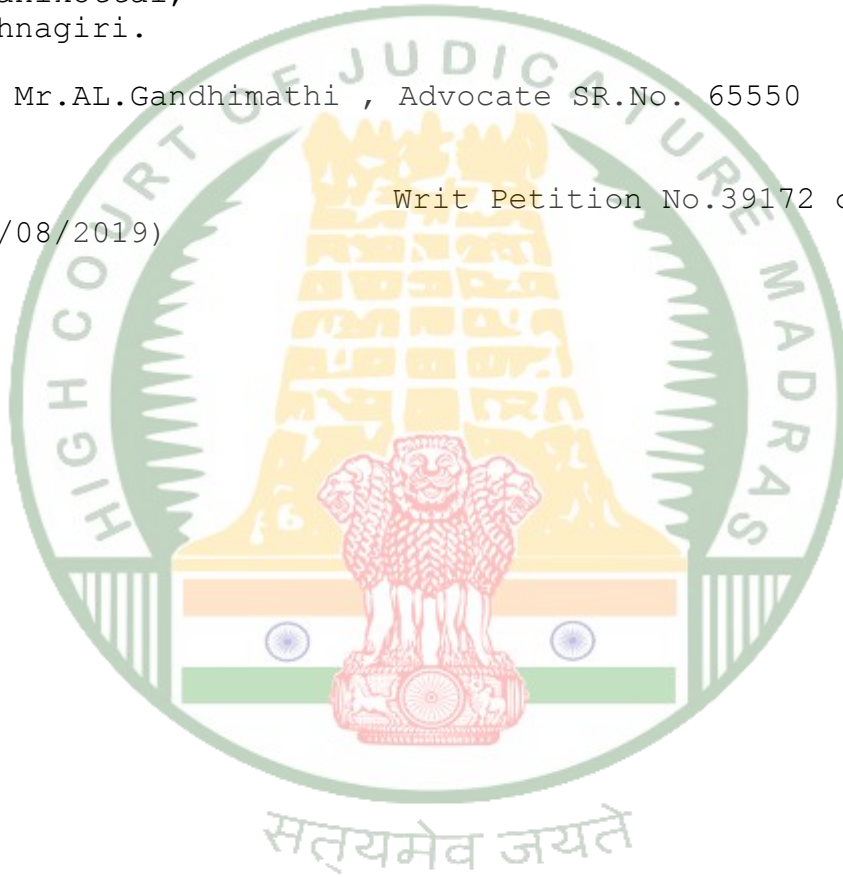
2.The Principal District Judge,
Krishnagiri.

3.The District Munsif cum Judicial Magistrate,
Denkanikottai,
Krishnagiri.

+1cc to Mr.AL.Gandhimathi , Advocate SR.No. 65550

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A.SK(09/08/2019)



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