

W.M.P.No.19812 of 2018
in
W.M.P.No.13706 of 2018
in
W.P.No.11738 of 2018

S.M.SUBRAMANIAM, J.

The Vacate Stay Petition in W.M.P.No.19812 of 2018 is filed to vacate the interim order passed in W.M.P.No.13706 of 2018 in W.P.No.11738 of 2018 dated 03.05.2018.

2.The writ petitioner, Smt.G.Geedha filed the present writ petition to quash the orders dated 26.04.2018 and to direct the 1st respondent to restore the Petitioner's seniority and promotion panel of the year 2011-2012 for the Post of Proof Reader.

3.The writ petitioner is working as Proof Reader in the office of the Commissioner of Archeology, Chennai. She was initially appointed as Compositor on 08.05.1992. She is fully qualified for promotion to the Post of Proof Reader. The name of the writ petitioner was included in the panel of the year 2011-2012 for promotion to the Post of Proof Reader. The name of the writ petitioner was placed in Sl.No.1 and the name of the 2nd respondent was placed at Sl.No.3. Based on the seniority, the writ petitioner was promoted to the Post of Proof Reader and continued as such in the post.

4. After prolonged period, the 2nd respondent in the writ petition namely, Tmt.S.Saraswathi, filed an objections, stating that her seniority was mistakenly fixed and she is senior to the writ petitioner as per the Rank List provided in the appointment order itself. Claiming that the seniority was fixed erroneously, the 2nd respondent filed objection and her claim was considered by the respondents and the seniority list was revised and the name of the 2nd respondent, Tmt.S.Saraswathi was placed above the name of the writ petitioner and consequently, the writ petitioner is reverted. Challenging the said order, the present writ petition is filed.

5. The learned counsel for the writ petitioner states that the objections in respect of the disputes in the seniority list, must be filed within a period of three years from the date of publication of seniority list.

6. In the present case on hand, the 2nd respondent admitted the seniority list and had not raised any objections. After a lapse of many years, the 2nd respondent raised objections in respect of the fixation of seniority as well as the promotion granted to the writ petitioner during the years 2012. Thus, such belated objections submitted to revise the seniority cannot be entertained by the authorities competent. This apart, the 2nd respondent had not raised any objections in respect of the promotion granted to the writ petitioner. Under these

circumstances, the present claim of the 2nd respondent for revision of seniority and promoted her to the post of Proof Reader cannot be entertained at all.

7. Earlier, the writ petitioner filed W.P.No.21669 of 2015, challenging the order dated 30.06.2015, reverting the writ petitioner. However, this Court quashed the order dated 30.06.2015 on the ground that the Principles of Natural Justice had not been followed. Thus, the case was remanded back to the 1st respondent for rehearing by affording opportunity to the parties concerned and thereafter, pass the final orders. The 1st respondent / Commissioner of Archaeology reconsidered the entire issue and passed the present impugned orders dated 26.04.2018. Thus, the writ petitioner has chosen to file the present writ petition and the present Vacate Stay Petition is filed to vacate the interim order granted in the writ petition.

8. The 2nd respondent in the writ petition namely Tmt.S.Saraswathy contended that in the order of appointment to the Post of Compositor in Department of Archaeology, it was clearly mentioned that the position of the 2nd respondent / Tmt.S.Saraswathy as Rank No.1 and the writ petitioner Smt.G.Geetha had been placed below the 2nd respondent at Rank No.2 and the details are extracted hereunder:-

1.S.Saraswathy(Regn.No.EW/665/83/8.9.83)

2.G.Geetha(Regn.No.EW/708/85/25.9.85)

3.D.Sathyavathy(Regn.No.EW/723/85/30.9.85)

9.It is further stated that the Commissioner of Archaeology in his proceedings dated 19.05.2011, issued the seniority list for the purpose of making promotions to the Post of Proof Reader for the year 2011-2012 and in the said seniority list, the 2nd respondent was placed in Sl.No.3 and against the said seniority list, the 2nd respondent filed objections on 19.02.2013 with all documentary evidences as per the Rules 35(a) and 35(f) of the Tamil Nadu State and Subordinate Service Rules.

10.With reference to the said objections submitted in the year 2013, the respondents conducted an enquiry and it is pertinent to note that the order, revising the seniority was passed in proceedings dated 30.06.2015, i.e., within 2 years from the date of submission of objections by the 2nd respondent and the said objections was also submitted within a period of three years from the date of publication of seniority on 19.05.2011. Thus, there is no delay on the part of the 2nd respondent in approaching the 1st respondent for revision of seniority and for consequential promotion.

11.The learned counsel appearing on behalf of the 2nd respondent in the

writ petitioner made a submission that in respect of the rectification of errors, there is no time limit and the errors committed in recording the seniority, date of birth etc., can be corrected at any point of time as such genuine errors or mistakes cannot be allowed to continue merely on the ground of limitation. Even otherwise also, the 2nd respondent/ Tmt.S.Saraswathy filed her objections within a period of three years on 19.02.2013 and her objections were duly considered by the authorities and accordingly, the seniority was revised by the 1st respondent in proceedings dated 30.06.2015 itself. As per the orders passed by the 1st respondent in proceedings dated 30.06.2015, the name of the 2nd respondent/Tmt.S.Saraswathy was placed in Serial No.1 and the writ petitioner/Smt.G.Geetha was placed in Sl.No.2. The revised seniority list was effected and on the same day, the consequential proceedings were issued, reverting the writ petitioner from the Post of Proof Reader, so as to appoint the writ petitioner in the said post.

12.Only one Post of Proof Reader is sanctioned in the Department of Archaeology and therefore, consequent to the Revision of seniority, the writ petitioner must be reverted back and the 2nd respondent is to be promoted.

13.The writ petitioner earlier filed the Writ Petition in W.P.No.21669/2015, challenging the order of revision of seniority and consequently reversion issued

in proceedings dated 30.06.2015. The writ petition was kept pending for about two years and the final order was passed on 07.11.2017. Thus, absolutely, there is no delay on the part of the 2nd respondent in adjudicating the issues.

14.The learned counsel for the 2nd respondent by referring the earlier order of revision of seniority dated 30.06.2015, categorically stated that the objections submitted by the 2nd respondent namely Tmt.S.Saraswathy on 19.02.2013 has been referred in the order itself as Reference No.10.

15.The fact remains that the writ petitioner/ Smt.G.Geetha was promoted to the Post of Proof Reader during the year 2012. However, the 2nd respondent/Tmt.S.Saraswathy submitted her objections in respect of the fixation of seniority in her Letter dated 19.02.2013. The said objections submitted by the 2nd respondent / Tmt.S.Saraswathy was considered and an order was passed on 30.06.2015, revising the seniority of the 2nd respondent and consequently, the writ petitioner was reverted. The earlier writ petition was filed by the writ petitioner in W.P.No.21669 of 2015 was allowed merely on the ground that no opportunity was given to the writ petitioner namely, Smt.G.Geetha to submit her explanations to the objections for the 2nd respondent for revision of seniority. Thereafter, the 1st respondent provided opportunity to all the parties concerned and pass the present impugned order in proceedings dated 26.04.2018,

reiterating the earlier decision of revising the seniority and accordingly, the 2nd respondent / Tmt.S.Saraswathy was placed in Sl.No.1 and the writ petitioner, Smt.G.Geetha is placed in Sl.No.2 based on the original appointments and the ranking followed in the appointment.

16.It is contended that the 2nd respondent/Tmt.S.Saraswathy is senior to the writ petitioner in all respects including in date of birth. That is the reason why, the 2nd respondent / Tmt.S.Saraswathy was placed in Sl.No.1 in the appointment ranking list.

17.Under these circumstances, this Court is of the considered opinion that there is no delay on the part of the 2nd respondent / Tmt.S.Saraswathy from approaching the competent authority as per the Rules in force within a period of three years. The 1st respondent also considered the claim of the 2nd respondent and passed the order in proceedings dated 30.06.2015, revising the seniority and issued consequential order, reverting the writ petitioner, so as to promote the 2nd respondent to the Post of Proof Reader. The said order was challenged during the year 2015 and in the year 2017, the matter was remanded back to the 1st respondent and the 1st respondent reconsidered the entire issue and accordingly, passed the order in proceedings dated 26.04.2018, revising the seniority list by placing the 2nd respondent / Tmt.S.Saraswathy, above the name of the writ

petitioner/Smt.G.Geetha.

18.In view of the fact that the Post of Proof Reader is the single sanctioned post in the Directorate, the 1st respondent reverted the writ petitioner, so as to promote the 2nd respondent / Tmt.S.Saraswathy as per the revised seniority list.

19.This being the factum of the case, there is no infirmity or irregularity in respect of the order passed by the 1st respondent and consequently, the interim order granted is liable to be vacated.

20.Accordingly, the interim order granted by this Court in W.M.P.No.13706 of 2018 in W.P.No.11738 of 2018 dated 03.05.2018 stands vacated and accordingly, W.M.P.No.13706 of 2018 in W.P.No.11738 of 2018 stands dismissed and the Vacate Stay Petition filed in W.M.P.No.19812 of 2018 in W.P.No.11738 of 2018 stands allowed. No costs.

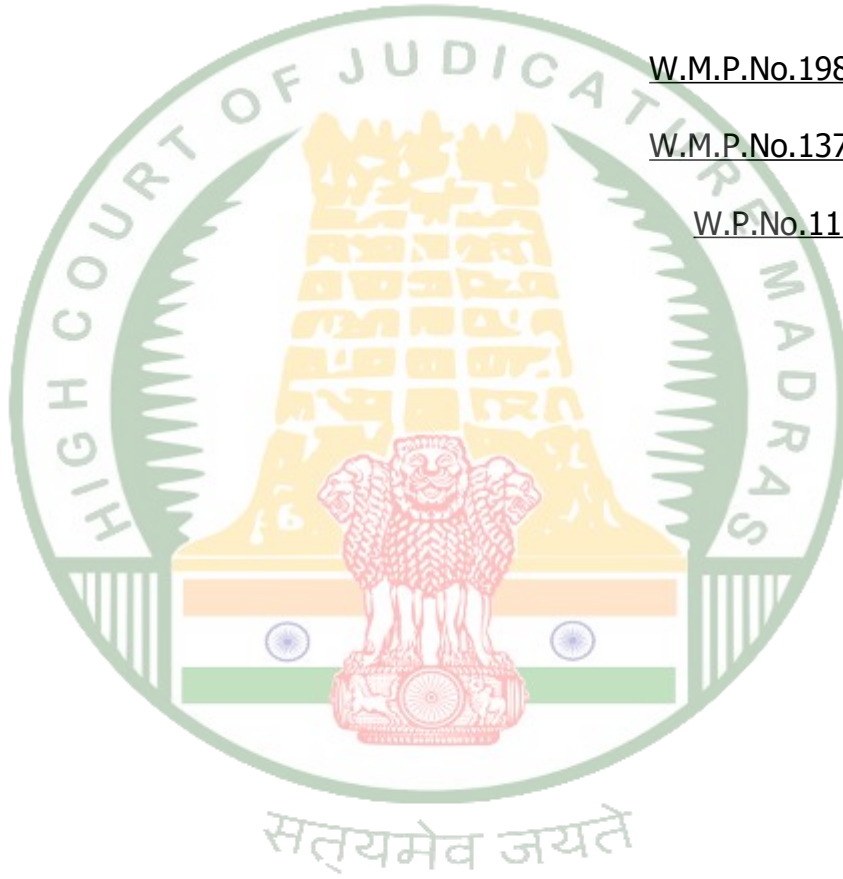
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