

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2019

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.P.No.10678 of 2017

G.Sridevi

.. Petitioner

-vs-

- 1.The Registrar General
Madras High Court,
Madras 600 104.
- 2.The Principal Judge,
City Civil Court,
Chennai 600 104.
- 3.The Registrar
City Civil Court,
Chennai 600 104.
- 4.The Chief Metropolitan Magistrate,
Egmore @ Allikulam,
Chennai 600 003.
- 5 G.SHANTHI Bench Clerk-II
G.SHANTHI Bench Clerk-II XIII Asst. City
Civil Court Chennai.
- 6 S.DEVI Bench Clerk-II
VI Asst. City Civil Court Chennai.
- 7 M.ABDUL RAZACK Bench Clerk-I
I XI Asst. City Civil Court Chennai.
- 8 B.SOUNDARI Bench Clerk-II X
Court Court of Small Causes Chennai.

- 9 K.PERUMAL Bench Clerk-II D
-Section Chief Metropolitan Magistrate
Court Egmore Chennai.
- 10 G.DULASI Bench Clerk-II VI
I Metropolitan Magistrates Court George
Town Chennai.
- 11 T.THENMOZHI Bench Clerk-II
III Asst City Civil Court Chennai.
- 12 P.KAVITHA Bench Clerk-II I
X Court Court of Small Causes Chennai.
- 13 N.KALAISELVI Bench Clerk-II
E-1 Section City Civil Court Chennai..
- 14 REVATHI MOHAN Bench Clerk-I
I Accounts Section City Civil Court
Chennai.
- 15 P.ALAGU (RETIRED) No.2/492
West Mogappair Chennai-37.
- 16 M.AKILA Bench Clerk-II Jug
es Bill Section City Civil Court Chennai.
- 17 L.SEBASTIAN Bench Clerk-II
Property Room Metropolitan Magistrate Court
Egmore Chennai.
- 18 J.GIRIDHARA BABU Bench Cler
k-II V-Metropolitan Magistrate Court
Egmore Chennai.
- 19 B.UMA MAHESWARI Bench Clerk
-II XV asst. City Civil Court Chennai.
- 20 R.JOTHY
Assistant City Civil Court Chennai.
- 21 A.SELVI
Bencch Clerk-II III Asst. City Civyl Court
Chennai.
- 22 J.FOUSAMMAI Bench Clerk-II
Special Court for the cases Under PC Act
Chennai.

- 23 C.AMBIGA Bench Clerk-II
XII Court of Small Causes Chennai.
- 24 D.MARIN Bench Clerk-II
III Court of Small Causes Chennai.
- 25 T.ANUJARANI Bench Clerk-II
Accounts Section City Civil Court Chennai.
- 26 P.BALASUBRAMANI Bench Clerk
-II III Fast Track Court Saidapet
Chennai.
- 27 M.E.BAGYALAKSHMI Establishm
ent Metropolitan Magistrate Court Egmore
Chennai.
- 28 K.CHANDRASEKARAN Bench Cler
k-II II Court of Small Causes Chennai.
- 29 K.MYTHILI Assistant
Cash Section Family Court Chennai.
- 30 A.SHARFUNNISHA BEGUM Assist
ant Cash Section City Civil Court
Chennai.
- 31 B.SHANTHI Assistant
Office of the City Government Pleader
Chennai.
- 32 S.NEELAYATHATCHI Assistant
Ledger Section City Civil Court Chennai.
- 33 A.PAUL MONTINI Assistant
A-Section Saidapet Chennai.
- 34 S.SELVI Assistant
VI Court of Small Causes Chennai.
- 35 K.KARUTHAPANDIAN Assistant
Building Section City Civil Court Chennai.
- 36 N.JAYAPRAKASH Assistant
VI Court of Small Causes Chennai.

- 37 N.SAROJINI BAI (RETD) No.B2-
8 New PRO Police Quarters R.A.Puram
Chennai-28.
- 38 C.SHANMUGAM Assistant D-Se
ction Chief Metropolitan Magistrate Court
Egmore Chennai.
- 39 M.A.SARAS DEVI Establishmen
t Court of Small Causes Chennai.
- 40 P.MOHANAVALLI Cash Section
Metropolitan Magistrate Court Saidapet
Chennai.
- 41 B.KUPPUSWAMY Assistant
I Fast Track Court Egmore.
- 42 R.DHANARANI (RETD) F-47 1/4
Nadhan Flats Dhanalakshmi Colony I Street
Vadapalani Chennai-26.
- 43 P.SUMITHRA Assistant XVI M
etropolitan Magistrate Court George Court
George Town Chennai.
- 44 D.RANI assistant Record Ro
om Metropolitan Magistrate Court Egmore
Chennai.
- 45 B.SAKUNTHALA Assistant Acc
ounts Section City Civil Court Chennai.
- 46 P.GEETHA Assistant Bills
Metropolitan Magistrate Court Saidapet
Chennai.

.. Respondents

(R5 to R 46 Impleaded Vide Order dt 4/12/2019 made in WMP.8646
8653 8654 of 2019 in WP.10678 10679 10)

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records relating to the Impugned Order passed by the 3rd respondent in Dis.No:4552/E2/2017 dated 07.04.2017, quash the same and consequently direct the respondents to refix the Seniority of the petitioner with effect from 06.08.2011 as Serial No: 8 instead of Sl.No:45 and be eligible for all attendant benefits therefrom.

For Petitioner : Mr.K.S.Kumar

For Respondents : Mr.R.Vijayakumar

ORDER
(Made by The Hon'ble Chief Justice)

Heard learned counsel for the petitioner and learned counsel for the respondents.

2.The petitioner has come up complaining that she has been denied seniority as per Rule 36 (a) of the Tamil Nadu Judicial Ministerial Service Rules, wherein the seniority has to be allocated from the date of joining on probation. The fact that the petitioner had joined on probation on 07.08.2009 is undisputed and rather admitted by the respondents. Not only this, it is also undisputed that the confirmation/regularisation of the services of the petitioner came to be recorded vide communication issued on 05.02.2013, whereas the same had to be declared on completion of two years of probation as per the Rules in 2011 itself. This delay in issuance of such declaration is also admitted by the respondents and further, the same was not appropriately recorded in the service book is also not denied. The petitioner was granted promotion, but before that, it is undisputed that a provisional seniority list came to be circulated by the respondents on 07.08.2013. The said letter circulating the provisional seniority list recites that objections if any received from the staff members may be sent to the office of the learned Principal Judge on or before 26.08.2013, failing which the provisional consolidated seniority list will be treated as final consolidated seniority list. The oral submission of the learned counsel for the petitioner is that such a letter which appears to have been circulated was not received by the petitioner. We examined this fact with the help of the counter-affidavit filed on behalf of second and third respondents, who, in paragraph 8, have stated that upon the circulation of this list, the petitioner did not raise any objection regarding promotion of her juniors.

3.The first issue, therefore, that has to be determined is as to whether the petitioner was aware of the circulation of the provisional seniority list and as to whether she had filed any objections in regard thereto.

4.This is necessary inasmuch as the stand taken by the respondents in their counter-affidavit is not that the seniority of the petitioner was correctly maintained. To the contrary, the documents on record do indicate that by virtue of the exclusion of the period of probation, the petitioner's seniority was incorrectly recorded. The sole case of the respondents in their counter-affidavit is that in view of Rule 36 (cc), the petitioner did not seek revision of the seniority within three years from the date of appointment or three years from the date of circulation of the provisional seniority list. The contention, therefore, is that the provisional seniority list having been circulated on 07.08.2013 and the last date for filing objections being 26.08.2013, the objection having not been filed till 26.08.2013, the petitioner had lost her right to seek any such revision, as the seniority list, according to the letter dated 07.08.2013, had become final.

5.On the above facts, we find that it is correct that the provisional list had been circulated on 07.08.2013 and the fact that the petitioner did not file any objection has been categorically stated in paragraph 8 of the counter-affidavit, which has not been denied by the petitioner. The said fact has not even been raised in the representation dated 03.03.2016 and therefore, the contention of the petitioner that she did not know about the circulation of the list does not appear to be correct.

9.The fact, however, remains that the said provisional seniority list came to be finally circulated on 05.12.2015. This document, which has been brought on record, is not denied by either of the parties. It is, therefore, clearly evident that the provisional seniority list dated 07.08.2013 was allowed to become final with the circulation of the final list only on 05.12.2015 and not prior to that. Consequently, in our considered opinion, Rule 36 (cc) would be attracted and the period of limitation would start running from 05.12.2015 onwards. In such circumstances, when the admitted position that emerges is that the final seniority list came to be published only on 05.12.2015, then the representation filed by the petitioner on 03.03.2016 is well within the limitation as prescribed in the aforesaid Rule. The contention of the respondents, therefore, that the representation of the petitioner was beyond time and the rejection thereof on 07.04.2017 on such a ground is unsustainable.

10.We, accordingly, allow the writ petition and quash the order dated 07.04.2017 with a direction to the respondents to maintain and accordingly, re-arrange the seniority list placing

the petitioner according to her seniority treating her date of joining, i.e., 07.08.2009, as initial date for the purpose of seniority as per rule 36 (a) of the Rules aforesaid. The said appropriate correction be carried out within a period of three months from the date of production of a certified copy of the order. There shall be no order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sra

To

- 1.The Registrar General
Madras High Court,
Madras 600 104.
- 2.The Principal Judge,
City Civil Court,
Chennai 600 104.
- 3.The Registrar
City Civil Court,
Chennai 600 104.
- 4.The Chief Metropolitan Magistrate,
Egmore @ Allikulam,
Chennai 600 003.

+1cc to Mr.K.S.Kumar, Advocate SR.101442
+1cc to Mr.R.Vijayakumar, Advocate SR.101467

W.P.No.10678 of 2017

RSK(CO)
CB(30/12/2019)