



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	03.12.2019
DELIVERED ON	:	19.12.2019

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.16577 of 2017

K.Ulaganathan

.. Petitioner

v.

1.High Court of Judicature at Madras,
rep. by the Registrar General,
High Court, Chennai-600 104.

- 2.C.Karthikeyan
- 3.D.Brindhavanam
- 4.G.Madhusudhana Reddy
- 5.P.C.Annapoorani
- 6.V.Rajameenakshi
- 7.M.Jayamani
- 8.R.Arunraja
- 9.M.Mohanasundaram
- 10.G.Meena
- 11.S.Eswari
- 12.N.Umadevi
- 13.V.Bama
- 14.K.Arumugachander
- 15.K.Vanitha
- 16.G.Shiela
- 17.R.Kavitha
- 18.K.Somasundaram
- 19.J.Vasanthi
- 20.P.Kannagi
- 21.K.V.Dimple
- 22.V.Venkatasubramaniyan



WEB CLOSURE

23.K.Gopinath
24.S.Nagamuthu
25.G.Laxmi
26.P.Shakila
27.B.Dhamodaran
28.M.B.ranichandra
29.Lakshmi Nunna
30.S.Rajasekar
31.B.Ananda Ramakrishnan
32.I.Jebakani
33.V.Satheesh
34.A.Mohan
35.K.Mahalakshmi
36.L.Chithra
37.I.Sylvia Punitha Kumari
38.S.Jothilakshmi
39.S.Vijayalakshmi
40.C.Karthika-I
41.Syedahumera
42.T.Ravikumar
43.P.Veerachinnammal
44.M.S.Kajal Beevi
45.S.Meenakchisundaram
46.R.M.Visuwanathan
47.S.Prabha Devi
48.Amco Kalaima Arasi
49.S.Sumathi-I
50.C.Saraswathi
51.N.Ranagaraaj
52.T.Naga Sanjeeva Rao
53.R.Padmavathi-II
54.M.Suresh Venkatesan
55.S.Somasundaram
56.R.Anuradha
57.K.Thanga Thandapani
58.B.Poornima
59.R.Nallasamy
60.S.Jegan
61.L.Saravana Kannan
62.M.Thangapriya
63.G.Venkatesh Babu
64.K.Robin Rajkumar
65.Anurekha Jeyasankar
66.R.Srinivasan
67.M.A.Saraswathi
68.V.Ragupathyraja

.. Respondents



Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration, declaring that the appointments of respondents 2 to 11, 13, 15, 18 to 20, 22 to 27, 29, 30, 32 to 47, 51, 52, 54 to 64 as Assistants, the appointments of respondents 21 and 68 as Computer Operators, the appointments of respondents 12, 16, 17, 48 to 50, 53, 65 to 67 as Readers/Examiners/Typists and the appointments of respondents 14, 28 and 31 as Officer Assistants are null and void.

For Petitioner : Mr.M.Radhakrishnan

For Respondents : Mr.B.Vijay
for respondent No.1

Mr.V.Vijay Shankar
for respondent Nos.2, 3, 5,
15, 18, 20, 22 to 25, 26,
27, 30, 32 to 36, 40, 43 to
45, 54, 55, 57, 59, 60, 61
and 64

Mr.AR.L.Sundaresan
Senior Counsel
for M/s.AL.Gandhimathi
for respondent Nos.6 to 11,
58 & 68

Mr.R.Singaravelan
Senior Counsel
for Mr.A.Kandasami
for respondent Nos.12, 14,
16, 21 and 47

ORDER

HON'BLE CHIEF JUSTICE

This writ petition has sought for declaration, declaring appointments of the private respondents 2 to 68 in their respective posts, as null and void.

2. The writ petition has been vehemently opposed by the High Court contending that this writ petition is clearly abuse of process of the Court founded on suppression of material facts



and the writ petition has been designed to re-agitate the same issue which has already become final and cannot be permitted to be raised as finality stands attached in the litigations previously initiated by the petitioner and also in view of the fact that W.P.No.21237 of 2013 also deserves to be dismissed in view of the stand taken by the High Court in the said writ petition.

3. It is therefore submitted that in the background above this is the fourth time the petitioner is before this Court to upset and unsettle the appointments that were made long ago in the feeder cadre and also the subsequent promotions and seniority to the higher post of Assistant Section Officers and Section Officers. This being the claim in the garb of claiming seniority over and above the private respondents by consolidating the pleas together, the same cannot be considered now that too even at the instance of the petitioner, who has previously lost this battle.

4. We have considered the submissions on merit and we find that learned counsel for the petitioner vehemently relied on the judgment in the case of H.C.Puttaswamy v. High Court of Karnataka, reported in 1991 Supp (2) SCC 421 and has urged that the said judgment having held the field and even later on culminating in the judgment in Renu and others v. District and Sessions Judge, Tis Hazari Courts, Delhi and another, reported in (2014) 14 SCC 50, the High Court having resorted to unlawful appointments and promotions cannot publish the seniority of the petitioner who was lawfully appointed and therefore his seniority has to be restored over and above the back door entrants.

5. In sum and substance, the argument rests on the plea that several persons who were appointed as Copyists, Typists, Readers and Examiners de hors the Rules and having entered the cadre, they should be placed down below in the seniority and the petitioner's seniority should be accordingly upgraded treating their appointments to be invalid. He further submits that even though the petitioner is not praying for quashing of their appointments or promotions yet such declaration and re-fixation of seniority should be resorted to, for which an appropriate direction should be given.



6. In this background, we have considered the preliminary objection raised on behalf of the High Court and we find that it has considerable substance while dealing with this issue. We have also recorded our reasons while dismissing W.P.No.21237 of 2013 and we find that the said reasons are very much applicable on the facts of the present case for more than one reason. The objection of the High Court that the petitioner has failed to disclose material facts partly appears to be correct inasmuch as the petitioner had been clearly indicated about the outcome of the fixation of the seniority. On this, learned counsel for the petitioner urged that the information which was given was only with regard to the provisional seniority that was placed on the website on 01.9.2014. This was not a final seniority list and therefore, the petitioner's cause cannot be thrown out on the ground of any delay having been caused on this account. We find that on 1.12.2014, final seniority list had been published and the petitioner was well informed about the same as is evident from the records. It is therefore evident that the petitioner has deliberately not disclosed these facts in the writ petition filed by him and therefore, the non-disclosure of correct facts in the writ petition which was very much in the knowledge of the petitioner disentitles him for the discretionary relief. The status of knowledge of the past proceedings and then fixation of seniority in 2014 is evident inasmuch as the past proceedings were well in the knowledge of the petitioner as is evident from the pleadings in W.P.No.21237 of 2013. The seniority list was published thereafter and was notified. This fact could not be successfully rebutted by the petitioner. In the wake of the said facts and the reasons given hereinabove, the preliminary objection raised by the High Court deserves to be upheld.

7. Accordingly, the writ petition is dismissed for all the aforesaid reasons recorded hereinabove. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

The Registrar General,
High Court of Judicature at Madras,
Chennai-600 104.

+1cc to M/s.A.Kandasamy, Advocate sr106523
+1cc to M/s.V.Vijay Shankar, Advocate sr.105965
+1cc to M/s.AL.Ganthimathi, Advocate sr.106455
+1cc to Mr.M.Radhakrishnan, Advocate sr.106360

W.P.No.16577 of 2017

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nr 23/01/2020