

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.08.2019

CORAM

The Honourable Mr.JUSTICE K.K.SASIDHARAN

and

The Honourable Ms.JUSTICE P.T.ASHA
W.A.No.1758 of 2014

A. Naganathan

...Appellant

Vs.

1. The Joint Director (Admn.) of
Treasuries & Accounts,
Chennai- 600 015.

2. The Special Commissioner &
Commissioner of Treasuries & Accounts
Panagal Buildings, Saidapet,
Chennai.

3. The Secretary to Government,
Public Department,
Fort St. George,
Chennai- 600 009.

4. Pension Pay Officer,
Pension Pay Office,
E.V.K. Sampath Building,
College Road,
Chennai- 600 006.

... Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent Act praying to admit and allow the Writ Appeal and set aside the order passed in W.P.No.3687 of 2008, dated 07.08.2013 on the file of this Court and pass orders.

Prayer in W.P.No.3687 of 2008:

Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of Certiorarified Mandamus to call for the records of First Respondent dated 28.9.2007 and made in Proc.Rc.61063/02/M1 and quash the order of the first

respondent as illegal and without jurisdiction and consequently direct the respondents to refix the petitioners Scale of pay 6500-200-11100 with effect from 2.8.1995 and to grant annual increments of Rs.175/- from 1.7.2002.

For Appellant : Mr. Rajakalifullah, Senior counsel
for Mr.K.Sellathurai

For Respondents : Mrs. Srijayanthi, Spl.G.P.

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

This intra court appeal is directed against the order dated 07.08.2013 in Writ Petition No.3687 of 2008 negating the claim made by the appellant to fix his pay scale with effect from 02.08.1995 in the Special Grade post of Upper Division Accountant.

2. The appellant was initially appointed as Accountant in the Treasuries and Accounts Department. He was later appointed as Upper Division Accountant in the State Guest House with effect from 12.08.1985 by way of transfer of service. The appellant was reverted to the parent department as per the proceedings dated 19.12.1994. The appellant, on reversion, was appointed as Assistant Section Officer in the State Election Commission on service lent basis by the second respondent. The appellant was once again relieved from the State Election Commission and re-appointed as Upper Division Clerk in the State Guest House. The appellant claimed pay scale applicable to the regular employees of the State Guest House.

3. He was thereafter transferred to the Pension Pay Office as Special Grade Accountant in the existing scale of pay of Rs.5500-175-9000/-. The appellant made a claim that his pay should be refixed in the Special Grade Post of Upper Division Accountant in the scale of pay of Rs.10,000-325-15200 as per the order in G.O.Ms.No.915 dated 10.10.2002. The representations submitted by him were rejected by order dated 28.09.2007. The order dated 28.09.2007 was unsuccessfully challenged before the Writ Court.

4. The learned Senior Counsel for the appellant contended that the appellant was justified in his contention that he should have been given the pay scale applicable to the Superintendent and the contention taken by the respondents that he is not qualified to hold the said post is baseless.

5. We have also heard the learned Special Government Pleader on behalf of the respondents.

6. There is no dispute that the appellant was initially employed in the Treasuries and Accounts Department. It was only by way of recruitment by transfer, the appellant was appointed as Upper Division Accountant in the State Guest House. The order reverting the appellant to the parent department was challenged before the Tamil Nadu State Administrative Tribunal. The original application was dismissed by order dated 23.07.2002. The said order was challenged before a Division Bench of this Court in W.P.No.29592 of 2002. The Writ Petition was disposed of by taking into account the submissions made on behalf of the respondents that the appellant would not be put in a disadvantageous position by reverting him to the parent department.

7. The appellant was given the Special Grade in the post of Accountant in the time scale of pay Rs.5500-175-9000 which is identical to the time scale of pay drawn by him in the post of Selection Grade Upper Division Accountant in the State Guest House, at the time when he was relieved.

8. The appellant made a claim for the post of Sub Treasury Officer/ Superintendent. The counter affidavit filed by the Director of Treasuries and Accounts Department clearly indicates that the appellant has not passed the Accounts test for Subordinate Officer Part II. When it is made out that the appellant was not qualified for promotion to the post as claimed by him, it cannot be said that the Government was not correct in negating the relief claimed by him.

9. We have perused the Tamil Nadu Treasuries and Accounts Subordinate Service Special Rules. The Rule is very clear that for promotion to the post of Sub Treasury Officer/Superintendent, the incumbent must have passed the Accounts Test for Subordinate Officers Part I and II. It is not the case of the appellant that he had passed the Accounts Test prescribed for appointment for the post of Sub Treasury Officer/Superintendent. The question of considering the case of the appellant for the post of Superintendent would arise only in case he is eligible to occupy the said post, in accordance with the existing service Rules. The Rule position supports the contentions taken by the Government that the appellant is not qualified to hold the said post. We are, therefore, of the view that the learned Single Judge was correct in dismissing the Writ Petition.

10. In the upshot, we dismiss the intra court Appeal. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Director (Admn.) of
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Chennai- 600 015.

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+1cc to the Government Pleader Sr.73396

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