



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) No.17620 of 2013

and

M.P (MD) Nos.1 & 2 of 2013

and

W.M.P (MD) No.3831 of 2016

WEB COPY

K.Bala Subramanian

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The Principal secretary/Commissioner of
Revenue Administration,
Chepauk, Chennai-600 005.

3.The Additional Chief Secretary/Commissioner of
Revenue Administration,
Chepauk, Chennai-600 005.

4.The District Collector,
Virudhunagar District,
Virudhunagar.

... Respondents

PRAYER: Writ Petitions under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings order Na.Ka.A1/12913/2009 dated 21.01.2013 of fourth respondent's office and quash the same as completely arbitrary illegal and contrary to the provisions of the Constitution of India being transgressing Article 14 and Article 16 of the Constitution of India and direct the fourth respondent to follow the impugned order in Roc.A1/12913/2009 (DT 2008) dated 12.1.2013 issued the fourth respondent to implead the petitioner's name in the list of Tahsildars panel for the year 2013 of Virudhunagar District.

For Petitioner : M/s.S.Visvalingam,

For Respondents : Mr.M.Jeyakumar,

Additional Government Pleader

**ORDER**

The order impugned, dated 21.01.2013 regarding the panel for promotion, is under challenge in the present writ petition.

2. The writ petitioner is a Promotee non-graduate Assistant working in the Revenue Department. The learned counsel appearing on behalf of the writ petitioner fairly made a submission that the fixation of seniority amongst the Promotee Non-graduate Assistant and direct recruitment assistant were decided by the Supreme Court of India in Civil Appeal Nos.251-256 of 2015. The Supreme Court adjudicated the issues regarding the fixation of seniority and promotion in the above case on 12th March, 2019.

3.As far as Promotee Non-graduate Assistants are concerned, the Apex Court granted liberty to pursue their grievance with the Government for effecting appropriate amendment to the Rules. The order of the Supreme Court in Paragraph-19 is extracted hereunder:-

"19.In the result, the impugned judgment of the High Court is set aside and these appeals are allowed with the following observations and directions:-

(i)Promotions of the Direct recruit Assistants effected between 07.02.1995 and 08.04.2009 and their seniority in their respective positions as on date, shall not be disturbed;

(ii)The benefit extended to the graduate promotee Assistants by placing them on par with Direct recruit Assistants is to be given effect to prospectively from the date of judgment of this Court dated 08.04.2009 rendered in the case of M.Rathinaswami v.State of T.N.reported in (2009) 5 SCC 625;

(iii)After 08.04.2009, the promotion to the post of Deputy Tahsildar from its feeder category, i.e., Direct recruit Assistants and Promotee graduate Assistants, shall be strictly in accordance with the Judgment of this Court referred above, i.d., treating Promotee graduate Assistants on par with Direct recruit Assistants. Such promotion shall be given effect to, without reference to any interim order (s) passed by the High Court;

(iv)If any panels are prepared, and promotions are given, after 08.04.2009 for promoting the Assistants to the post of Deputy Tahsildars in Tamil Nadu Revenue Subordinate Service contrary to the judgment of this Court dated 08.04.2009, such panels and promotions have to be revised so as to bring in conformity with the judgment of this Court referred above;



(v) By virtue of the judgment of this Court dated 08.04.2009, referred above, Promotee graduate Assistants are placed on par with Direct recruit Assistants. So far as Promotee non-graduate Assistants are concerned, the amended rule holds the field, which gives preferential treatment to Direct recruit Assistants, over Promotee non-graduate Assistants;

(vi) Promotee non-graduate Assistants, who are impleaded as party respondents in these appeals, are not entitled to any directions in their favour, as much as, all these appeals are preferred by Direct recruit Assistants;

(vii) While implementing the above directions, if the seniority and promotion, of the persons who are already retired or dead, is affected in any manner, payments made on account of such seniority and promotion earlier granted to them during the interregnum period, i.e., from 08.04.2009 till this date shall not be recovered.

(viii) So far as Promotee non-graduate Assistants are concerned, it is open for them to pursue with the Government for appropriate amendment to the Rules, in which event we keep it open to Government to consider such request on its own merits."

4. With reference to paragraph-19(viii) the petitioner has to approach the Government for the purpose of redressing his grievance, if any exist, as of now. In view of the order passed by the Hon'ble Apex Court, liberty is granted to the writ petitioner to approach the competent authority.

5. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.



2.The Principal secretary/Commissioner of
Revenue Administration,
Chepauk, Chennai-600 005.

3.The Additional Chief Secretary/Commissioner of
Revenue Administration,
Chepauk, Chennai-600 005.

4.The District Collector,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-78450[F] dated
30/07/2019)

+1 CC to M/s.SPL GP (SR-78941[F] dated 31/07/2019)

W.P. (MD) No.17620 of 2013

AM

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