



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P[MD]No.20111 of 2013

and

M.P.[MD]Nos.1 & 2 of 2013

R.Pandian

... Petitioner

Vs.

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai - 9.
2. The Director of School Education,
School Education Department,
College Road, Chennai - 600 006.
3. The Joint Director (Personnel),
School Education Department,
College Road, Chennai - 6.

4. The District Elementary Educational Officer,
Theni, Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the third respondent in his proceedings in Na.Ka.No.11573/A3/E2/2007 dated 04.02.2013 and quash the same as illegal and consequently direct the third respondent to advance petitioner's promotion as Assistant from the date on which his juniors' promotion as up-graded Superintendent in the light of the procedure as contemplated in G.O.Ms.No.1968 Education Department dated 02.11.1978 and the same confirmed by the Hon'ble Supreme Court of India in SLP Civil Appeal Numbers 5164-5166 of 1990 dated 28.04.1988 and pay all the consequential monetary benefits retrospectively within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
M/s.Ajmal Associates

For Respondents : Mrs.S.Srimathy
Special Government Pleader



O R D E R

The stale claim of notional promotion in respect of the promotion granted during the year 1970 is sought for by the writ petitioner at the age of 73 years.

2. Even as per the learned Special Government Pleader appearing on behalf of the respondents, the seniority list of the year 1970 is now questioned by way of a writ petition in the year 2013. The writ petitioner filed the writ petition at the age of 67 years for the purpose of seeking notional promotion on par with his juniors. However, no such juniors has been impleaded as party respondent in the writ petition nor the promotion order of such juniors has been challenged in this writ petition.

3. The only reason stated by the learned Counsel for the writ petitioner is that the seniority list was published in the year 2010 and therefore, the writ petitioner has chosen to approach this Court in the year 2013. The seniority list published in the year 2010 is with reference to the employees who all are in service during the relevant point of time and the writ petitioner attained the age of superannuation and retired from service in the year 2004 itself. The very claim of the writ petitioner is that his juniors were promoted pursuant to the seniority list issued in the year 2010.

4. This being the fact, this Court is of the considered opinion that the writ petitioner has put up a stale claim. Such retrospective promotion cannot be granted now after a lapse of many years. This apart, the writ petitioner is claiming retrospective notional promotion after his retirement and based on the seniority list published in the year 2010 which is unconnected with the retired employees. In view of the fact that the writ petitioner was allowed to retire from service in the year 2004, his claim for notional promotion with retrospective effect cannot be considered and the writ petition stands rejected on the ground of laches.

5. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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To

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai - 9.

2. The Director of School Education,
School Education Department,
College Road,
Chennai - 600 006.

3. The Joint Director (Personnel),
School Education Department,
College Road, Chennai - 6.

4. The District Elementary Educational Officer,
Theni, Theni District.

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-79401[F] dated
02/08/2019)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-79534[F] dated
02/08/2019)

W.P[MD]No.20111 of 2013
01.08.2019

MR

AE/(19.08.2019) 3P 7C