



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD) No.165 of 2019

N.Geethanjali

... Appellant

-vs-

The District Collector
District Collectorate Office
Pudukkottai District

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent Act to set aside the order, dated 15.11.2018, passed in W.P.(MD) No.15410 of 2015, on the file of this Court.

Prayer in WP(MD). 15410/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ or order or direction in the nature of Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the respondent dated 10.04.2015 in Na.Ka.Pa1/544/2012 (Development) and quash the same as illegal and consequently restore the seniority of the Petitioner to the original place No. 85 in Seniority list released by the Respondent on Se.Mu.Na.Ka.14683/2009/Pa3(Va) dated 11.01.2010.

For Appellant : Mrs.M.Krishnaveni

For Respondent : Mr.S.Angappan
Government Advocate

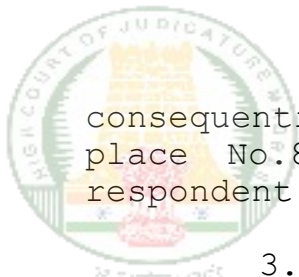
J U D G M E N T

[Judgment of the Court was made by T.S.SIVAGNANAM, J.]

This writ appeal by the writ petitioner is directed against the order dated 15.11.2018 in W.P.(MD) No.15410 of 2015.

2. The appellant filed the writ petition challenging the order passed by the respondent, dated 10.04.2015, and for a

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consequential direction to restore her seniority to the original place No.85 in the seniority list, which was released by the respondent on 11.01.2010.

3. The short issue, which falls for consideration is whether the appellant could have been denied inclusion of her seniority in the appropriate place of the seniority list for the year 2006-2007. The respondent has denied the benefit and included the name of the appellant in the panel of the year 2008-2009, on the ground that the appellant had completed the one year training after the crucial date i.e., on 01.03.2008. Therefore, it has to be seen as to whether the appellant can be put to a disadvantage, because she was not sent for training at the appropriate time. The facts disclose that the appellant was appointed as Junior Assistant in the year 1990, completed the departmental examinations in the year 1997. In the year 2006, the services of the appellant were regularized. Thus, in the year 2006, the appellant was eligible to be sent for the one year training. Nevertheless, the appellant was not sent for the training and she was sent belatedly, consequently, the completion of one year training fell beyond 01.03.2008. This, resulted in the appellant's name not being included in the panel of the year 2006-2007.

4. On a reading of the impugned order passed by the learned Single Bench, we get an impression that what waved in the minds of the Writ Court was that there was a delay of five years on the part of the appellant in completing the departmental examinations. In fact, there was no such delay on the part of the appellant, because the departmental examinations have been cleared by the appellant as early as in the year 1997 and the reason for denying promotion itself is on the ground that the appellant had completed the one year training beyond 01.03.2008. In this regard, it needs to be pointed out that it is the department, which has to send its employees for training and it does not lie in the hands of the employees as to on what date they have to be sent for training.

5. In the case of K.Senthilkumar vs. The District Collector (PD) Section, Tiruvannamalai District, vide order dated 04.06.2015 in W.P.No.15730 of 2015, the petitioner sought for a direction to promote him to the post of Deputy Block Development Officer, based on his feeder category seniority without insisting for service qualification of working for a period of one year each in the cadre of Assistant / Rural Welfare Officer Grade-I. In the said case, more or less an identical issue arose for consideration. Because of the delay in sending the candidate for training, he did not serve in the post of Assistant or RWO Grade-I. The Court granted relief to the petitioner therein on the ground that when the petitioner was not at fault for not getting service qualification, he could not be denied promotion. The ratio decidendi in the said decision can very well be applied to the facts and circumstances of the present case.



6. Thus, for the above reasons, we are of the considered opinion that the appellant is entitled to her name being included in the appropriate place of the seniority list by reckoning her position on the basis of the seniority list dated 11.01.2010. This direction be complied with by the respondent within a period of eight weeks from the date of receipt of a copy of this Judgment.

7. Accordingly, the writ appeal stands allowed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

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To:
The District Collector,
District Collector Office,
Pudukkottai District.

+1 CC to M/s.M.KRISHNAVENI, Advocate (SR-92678[F] dated 17/10/2019)

+1 CC to M/s.SPL GP (SR-93128[F] dated 18/10/2019)

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