



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE. R. MAHADEVAN

W.P. (MD) No. 9720 of 2017

WEB COPY

S. Priyatharsini

.. Petitioner

Vs.

1. The Director,
Rural Development and Panchayat Raj Dept.,
Panagal Building,
Chennai - 600 015.

2. The District Collector,
Sivagangai District,
Sivagangai.

3. The Block Development Officer,
(Union Office),
Panchayat Union,
Kalayarkovil,
Sivagangai District.

.. Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order in proceedings Na.Ka.P3/20001/2011 dated 07.03.2017 passed by the 2nd respondent and quash the same and direct the respondents to fix the seniority of the petitioner from the date of her initial appointment i.e. 30.06.2009 in the cadre of Assistant and consequently provide all the service and monetary benefits.

For Petitioner : Mr. R. Vijayakumar

For Respondents : Mr. C. M. Mari Chelliah Prabhu
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 07.03.2017 and consequently to direct the respondents to fix seniority of the petitioner from the date of her initial appointment i.e., 30.06.2009 in the cadre of Assistant and provide all the service and monetary benefits.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3. According to the learned counsel for the petitioner, the grievance of the petitioner is that her service as Steno Typist Grade - III was not reckoned for fixing her seniority to the post of Assistant. The learned counsel also submitted that in an identical



case in W.P(MD)No.13918 of 2010 dated 26.03.2014, this Court passed the following orders, at paragraph Nos.4 and 6:

"4.When the similar set of facts were placed before this Court for consideration, this Court by order dated 03.04.2009 in W.P(MD)No.4712 of 2008, directed the respondents to reckon the seniority of the petitioners from the date of their initial appointment along with Assistant with effect from 01.08.1992 in terms of Rule 35(b) of General Rules for Tamil Nadu State and Subordinate Services, which reads as under:

"The transfer of a person from one class or category of a service to another class or category carrying the same pay or scale of pay shall not be treated as first appointment to the latter for the purpose of seniority and the seniority of a person so transferred all be determined with reference to the rank in the class or category from which he was transferred where any difficulty or doubt arises in applying this sub-rule, seniority shall be determined by the appointing authority.

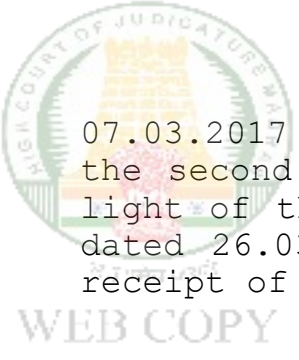
6.Since the issue is covered by the decision of this Court dated 20.04.2011 in WP(MD)Nos.8671 and 8672 of 2009, this writ petition is allowed by setting aside the impugned order and the second respondent is directed to pass necessary orders in the light of the above referred writ petitions and communicate the same to the petitioner within a period of six weeks from the date of receipt of a copy of this order."

4.The learned counsel for the petitioner further relied upon a judgment of a Division Bench of this Court in W.A(MD)Nos.2237 and 2238 of 2012 dated 27.02.2015 and submitted that Rule 35(b) of the Tamil Nadu State and Subordinate Service Rules alone would be applicable for fixing the seniority, in cases, where transfer is made. Hence, the learned counsel prayed for a similar order in this writ petition as well.

5.The learned Additional Government Pleader appearing for the respondents has no objection in directing the respondents to consider the claim of the petitioner in the light of the earlier order of this Court.

6.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the earlier order of this Court, this Court is inclined to set aside the order passed by the second respondent dated 07.03.2017 and to remit the matter for passing orders afresh.

7.In fine, this writ petition is allowed. The order passed by the second respondent in proceedings No.Na.Ka.P3/20001/2011 dated



07.03.2017 is set aside and the matter is remitted to the file of the second respondent for passing orders on merits and also in the light of the earlier order of this Court in WP(MD)No.13918 of 2010 dated 26.03.2014, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Director,
Rural Development and Panchayat Raj Dept.,
Panagal Building, Chennai - 600 015.

2.The District Collector,
Sivagangai District,
Sivagangai.

3.The Block Development Officer,
(Union Office),
Panchayat Union,
Kalayarkovil, Sivagangai District.

+1CC to Mr.R.VIJAYAKUMAR , Advocate SR.No. 57017.

mj

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