

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.19151 OF 2019

ORDER:

Heard learned counsel for the petitioner, Sri N. Bhupal Reddy, learned standing counsel for TSWREI for respondent No.1, and learned Government Pleader for Social Welfare for respondent No.2.

2. Petitioner was appointed as Junior Assistant-cum-Typist in the year 1993 in the 2nd respondent Institution, vide proceedings dated 03.12.1993 consequent upon sponsoring her name by the District Employment Exchange, Hyderabad, as per the selections made on the basis of the educational qualifications. According to petitioner, she stood at Serial No.9 in the regularization list and her services were regularized from 04.12.1993 vide proceedings dated 16.12.1994. Petitioner was promoted as Senior Assistant with effect from 01.06.1996, as Office Superintendent on 30.12.2006 and thereafter, as Assistant Secretary on 07.05.2019 in which capacity, she is working. The grievance of the petitioner is that the person who secured less merit than her in the Junior Assistant-cum-Typist cadre is shown as senior based on the roster point belonging to BC-D category and based on that assumption, she was shown as Senior Assistant and was granted further promotions ahead of the petitioner and the same is illegal.

3. Learned counsel for the petitioner placed reliance on the response given to the petitioner vide memo dated 17.10.2017.

By this memo, the petitioner was informed that on 11.02.2010, the seniority list was drawn, wherein Sri D. Srinivas was shown against Serial No.7 meant to be filled up against BC-D category and petitioner was shown against Serial No.14 against open competition vacancy. It is also stated that though petitioner secured more merit, by following the roster point system Sri D. Srinivas is treated as senior to her. Ex.P12 is the memo dated 11.02.2010 reflecting the seniority position.

4. Further, leaving aside the *inter se* position in the lower cadre after granting promotions in the Senior Assistant, vide memo dated 08.10.2005, the seniority list of Senior Assistants was prepared, and in the said list, Sri D. Srinivas was shown at Serial No.1 and petitioner was shown at Serial No.7. In the said list, the date of declaration of probation of Sri D. Srinivas was shown as 31.05.1997 and that of petitioner was shown as 16.11.1997. It also reflects that, by the said date, Sri D.Srinivas was already promoted as Superintendent. Petitioner raised her objections on 08.11.2005. Thereafter, it appears, she kept quiet and started disputing the same much later when turn for further promotion arose. It appears, in the year 2017, Sri D. Srinivas was promoted as Assistant Secretary.

5. The memo dated 17.10.2017 cannot give a fresh cause of action for the petitioner to litigate on the issue of seniority. This subsequent correspondence cannot give rise to a cause of action on the issue which stood settled on 08.10.2005 and at any rate on 11.02.2010. By virtue of this seniority, petitioner was also not aware of the treatment given to Sri D. Srinivas.

6. Though learned counsel for the petitioner sought to contend that merit alone is the criteria for fixation of seniority and not the roster point, having regard to the fact that the issue of seniority was finalized long ago and promotions were made to higher cadres based on the said seniority positions treating Sri D. Srinivas as senior to the petitioner, the Court cannot go into the aspect of method adopted in appreciating the seniority list at this distance of time.

7. In matters of seniority and promotions, time is the essential factor to be considered. After long lapse of time, the settled position cannot be upset. Based on the seniority given to Sri D. Srinivas his further promotions were regulated. Furthermore, in the seniority list vide memo dated 08.10.2005 between Srinivas and the petitioner, there are five more persons, who were regularized as Senior Assistants earlier to petitioner. All those persons' regularization and further promotions would get affected if the claim of the petitioner is accepted. All that cannot be upset after long lapse of time at the instance of the petitioner. Petitioner has not impleaded Sri D. Srinivas or any other person who is likely to be affected. Moreover, mere delay or negligence on the part of the authority cannot give rise to a cause of action, more particularly on the issue of seniority and promotions after long lapse of time.

8. Having regard to the above assessment of the case and on account of inordinate delay and having regard to the fact that the issue of *inter se* claim settled long ago, this Court is not

inclined to entertain the Writ Petition and the same is liable to be dismissed.

9. The Writ Petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall stand closed.

Date:27.09.2019

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P. NAVEEN RAO, J

