

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2020

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.15251 of 2010

S. Dayanidhi

.. Petitioner

Vs.

1. The Government of Tamil Nadu
rep.by its Secretary to Government,
Co-operation, Food & Consumer
Protection Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner of Civil
Supplies & Consumer Protection,
Chepauk,
Chennai - 600 005.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of the India praying to issue a writ of certiorarified mandamus, to call for the records of first respondent in impugned order No. N. 32440 /E2 / 2006-10 dated 23.01.2009 and quash the same and consequently issue a mandamus directing the respondent to arrange the petitioner in the appropriate placement in the seniority list and arrange him to promote immediately after M. Veluchamy.

For Petitioner :Ms. B. Archana

For Respondents:Mr. L.P. Shanmuga Sundaram

Special Government Pleader (Co-op)

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O R D E R

The writ petition has been filed seeking a writ of certiorarified mandamus, to call for the records of first respondent in impugned order No.N.32440/E2/2006-10 dated 23.01.2009 and quash the same and consequently issue a mandamus directing the respondent to arrange the petitioner in the appropriate placement in the seniority list and arrange him to promote immediately after M. Veluchamy.

2. The case of the petitioner is that he was selected and appointed to the post of Assistant in Tamil Nadu Public Service Commission, pursuant to the selection conducted for the year 1984-85. However, the petitioner was appointed only on 05.08.1987. According to the petitioner, one Veluchamy, who was also appointed along with the petitioner, was appointed to the post of Superintendent even in the year 1997, but such promotion was not conferred on him. The petitioner therefore preferred a statutory appeal to the Commissioner of Civil Supplies and it was rejected on 19.08.1997. As against the same, the petitioner preferred a revision to the Government and simultaneously filed O.A. No. 8716 of 1997 and 8717 of 1997. Therefore, the revision filed by the petitioner was kept in abeyance by the Government. Ultimately, the Tribunal dismissed the Original Petition filed by the petitioner and based on the same, the Government rejected the revision petition of the petitioner on 23.01.2009 which is challenged in this writ petition.

3. Heard both sides.

4. The grievance of the petitioner is that one Veluchamy, who was appointed along with him, was given promotion to the post of Superintendent in the year 1997, but such promotion was not conferred to him. It is seen that the said Veluchamy and petitioner was selected in the same recruitment drive in the year 1984-85. However, the said Veluchamy joined the post on 16.05.1986, while the petitioner was admittedly joined the post as Assistant only on 05.08.1987. Therefore, the petitioner claim that the said Veluchamy is his junior is not correct. Further, the petitioner has filed O.A. No. 8716 and 8717 of 1997 before the Tamil Nadu Administrative Tribunal. The Tribunal dismissed the Original Applications on 07.11.2002. The Tribunal has taken up the claim of the petitioner as well as other similarly placed persons. Before the Tribunal, it was contended that the direct recruits like the petitioner were deprived of their promotions and those who are not direct recruits were conferred with promotion. The Tribunal by taking note of the date of entry into service has refused to consider the claim of the direct recruits and held that the promotions were conferred on the basis of the Service Rules and by reckoning the date of appointment of the individual. The Tribunal also held that the service rule provides for direct recruitment and promotion and the seniority for promotion has to be reckoned only from the date of appointment of the individual. Admittedly, the petitioner did not challenge the order of the Tribunal and it has reached its finality. The petitioner, without challenging the order of the Tribunal has only challenged the order of the first respondent, which was passed on the basis of the order of the Tribunal. Furthermore, the petitioner has not impleaded the

persons, who according to him are juniors and who were given promotion without considering him for such promotion, as parties to this writ petition. Therefore also, the writ petition cannot be entertained and it is liable to be rejected by confirming the order of rejection passed by the first respondent.

5. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

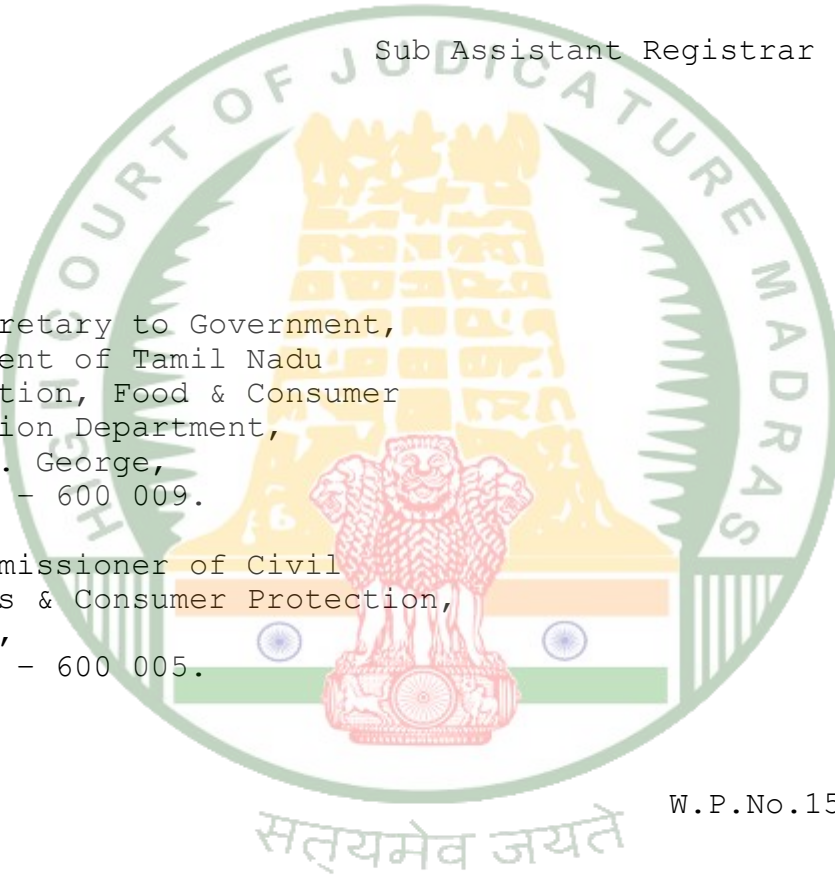
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Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu
Corporation, Food & Consumer
Protection Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Civil
Supplies & Consumer Protection,
Chepauk,
Chennai - 600 005.



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VGII (CO)
GS (23/07/2020)

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