

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :13.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.28730 of 2013

J.Vaijayanthi Janardhanan ...Petitioner

- Vs -

1.The Secretary to government
Commercial Taxes and Registration
Department, Fort St. George,
Chennai -09.

2.The Inspector General of Registration
Santhome, Chennai 28. ...Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the 2nd respondent in O.mu.No.36571/A-3/2011 dated 7.10.2011 and the subsequent rejection order in No.21010/A3/A5/2012 dated 19.10.2012 and quash the same and further direct the respondents to refix the seniority and grant all consequential service and monetary benefits and grant such other further relief as this Court may deem fit in the circumstances of the case.

For Petitioner : Mr.S.Sivakumar

For Respondents:Mr.S.Thangavel, Spl.G.P.

ORDER

The present petition has been filed to call for the records in connection with the impugned order passed by the 2nd respondent in O.mu.No.36571/A-3/2011 dated 7.10.2011 and the subsequent rejection order in No.21010/A3/A5/2012 dated

19.10.2012 and quash the same and further direct the respondents to refix the seniority and grant all consequential service and monetary benefits and grant such other further relief as this Court may deem fit in the circumstances of the case.

2.It is the case of the petitioner that she entered service as Junior Assistant in the year 1964 ; subsequently she got promotion as Assistant in the year 1978 and Sub Registrar Grade II in the year 1984; thereafter designated as District Registrar in the year 1998. It is averred by the petitioner that rule prescribes 8 years of service including two years as Assistant as the qualification for consideration for appointment of Sub Registrar Grade II. In spite of the rule position the respondents have not promoted number of Assistants including the petitioner in time and thereby their legitimate right has been deprived of. One Mr.Narayanan, made a representation to the Government to which reply dated 21.10.1985 was given informing that under the Tamil Nadu Registration Subordinate Service Rules, the rule of reservation being followed and therefore the claim was not considered. Aggrieved by that, he filed original application in O.A.No.392/89 wherein the Tribunal considered the issues on the basis of relevant rules applicable and the claim of the applicant was allowed by order dated 27.08.2013 and it was held that the seniority should be reckoned from the date of initial appointment in the category of junior Assistant which is contemplated under the rules as existed then. . Against the said order, State filed an appeal before the Hon'ble Supreme Court and the same was dismissed on 23.09.1994, which led to the amendment to the rule and the order of the Tribunal was complied. A committee was constituted to find out the beneficiaries under the said order and to that effect, a report was filed in which the name of the petitioner was not found prompting the petitioner to approach the 2nd respondent with a request to include her name in the panel for promotion to the post of Sub Registrar Grade II for the year 1974-75 to which, by order dated 7.10.11, the respondents informed that she is entitled for promotion to the post of SRO Grade II for the year 1973-74 and she was promoted and placed according to her seniority before one Mr.S.Govindrarajan in the general turn. However, the grievance of the petitioner is that the respondents have failed to inform the reason for the non inclusion of the petitioner's name in the panel for the year 1973-74 for which she made a representation, which was rejected. Aggrieved by the said rejection, the present writ petition has been filed.

3. Learned counsel appearing for the petitioner submitted that though the petitioner was entitled to be considered based on the order passed in one Narayanan's case, for the post of Sub Registrar Grade II in the panel for the year 1973-74, however her seniority was fixed in between one Mr.R.G. Venkatramanan who is senior to her and Mr. Devanathan, who is junior to her, she was promoted in the year 1983-84. However her seniority has not been properly fixed based on the date of her entry into the substantive post in the respective category and the request given in this regard was negatived without any reasonable basis, which is wholly unsustainable. Accordingly he prays for allowing this petition.

4. Per contra, learned Special Government Pleader appearing for the respondents, who refuting the averments of the petitioner by filing a detailed counter, further submitted that the fixation of seniority of the petitioner is as per the rules. It is the further submission of the learned Special Government Pleader that only due to certain disciplinary proceedings initiated against the petitioner, the petitioner's promotion was delayed and on completion of the proceedings, the petitioner has been granted promotion and her seniority has also been properly fixed. Learned Special Government Pleader drew the attention of this Court to relevant portion of the counter and submitted that the present petition is liable to be dismissed.

5. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. The facts in the present case are not in dispute. A perusal of the records reveal that the case of the petitioner was considered and her name was included in the promotion panel for the 1983-84. However, the grievance of the petitioner is that though she was eligible even in the year 1973-74, however, his name has not been considered. Though such a stand is taken by the petitioner, however, it is evident from the records that the petitioner has not challenged the then panel for the year 1973-74 and without challenging the said panel in which seniority has been fixed, filing the petition to refix her seniority cannot be sustained.

7. Further, it is to be pointed out that the present petition has been filed after a lapse of 13 years and the petition is definitely hit by laches, as no reason has been placed by the petitioner to substantiate the delay and further it is pertinent to note that she was promoted in the year 1983-

84. In the above backdrop of the facts and circumstances of the case, this Court is of the considered view that no mandamus, as sought for could be issued. Accordingly the present writ petition stands dismissed. However there shall be no order as to costs.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrarjrs

To

1.The Secretary to government
Commercial Taxes and Registration
Department, Fort St. George,
Chennai -09.

2.The Inspector General of Registration
Santhome, Chennai 28.

+1cc to S.Sivakumar Advocate SR.NO.34183

+1cc to the Govenrmnet Pleader SR.NO.34119

W.P. NO.28730 of 2013

SRA CO
SDR 11/12/2020



WEB COPY