

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 33428 of 2013
and
M.P.Nos.1 & 2 of 2013

M.S.Ramakrishnan

..Petitioner

- Vs -

State rep. Through:

1.The Secretary to Government,
Government of Tamil Nadu,
Home (Prisons) Department,
Fort. St. George, Chennai 09.

2.The Principal Secretary,
Home (Prisons) Department,
Chennai

3.The Additional
Director General of Police and
Inspector General of Prisons,
NO.1, Gandhi Irwin Road,
CMDA Tower II, Egmore,
Chennai 600 008.

4.J.Nirmla,
Assistant,
Central Prison,
Cuddalore.

(Now on other duty as Probation Officer)

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified Mandamus, calling for the records pertaining to the 3rd respondent's impugned order vide his proceedings No.13796/ES.1/2010 dated 29.08.2013 and to quash the same as illegal and consequently order to restore the original seniority list of "Assistants" in prisons department prior to impugned order.

For Petitioner : Mr.S.Muthalraj

For Respondents: Mr.S.Thangavel, Spl .G.P. For RR1 to 3

ORDER

This writ petition has been filed by the petitioner to call for the records pertaining to the 3rd respondent's impugned order vide his proceedings No.13796/ES.1/2010 dated 29.08.2013 and to quash the same as illegal and consequently order to restore the original seniority list of "Assistants" in prisons department prior to impugned order.

2.The case of the petitioner is that the petitioner initially joined as Typist in the year 1994 through Tamil Nadu Public Service Commission Group IV services and regularised in the year 1996 and he has passed all the five prescribed departmental tests required for getting promotion to the post of Assistant on 31.05.2000, and he was promoted as Assistant on 19.05.2001 and now presently working as Assistant in the 3rd respondent's Office.

2.1.It is the further case of the petitioner that as per the proceedings of the 3rd respondent dated 12.04.2001, the petitioner's name was included in the list of Junior Assistants-Typists fit for promotion to the post of Assistant for the year 2001-2002. A seniority list was drawn from the year 2001 till 29.08.2013 and while the seniority of the Assistant in Prison Department is maintained, the seniority of the 4th respondent herein, was revised by the 3rd respondent, vide his proceedings dated 29.08.2013 wherein the 4th respondent's name was below one Kalaiarasan and above that of the petitioner.

2.2. The grievance of the petitioner is that though the 4th respondent was not entitled to the said benefit of declaration of probation and placement over and above the petitioner, however, relaxation was granted in the Special Rules for the Tamil Nadu Ministerial Service, vide G.O.Ms.No.4(D) 56, Home (Prison-2) Department dated 20.07.2010, based on the G.O.Ms.No.707 Special Administrative Reforms Department dated 03.07.1981. Based on the above G.O. the 3rd respondent issued the impugned proceedings No.13796/E.S.I/2010 dated 29.08.2013 and revised the list of Junior Assistants/Typist fit for the promotion for the post of Assistant for 2000-2001 retrospectively. The said modification in the seniority has affected the petitioner's seniority, and, therefore, challenging the said order passed by the 3rd respondent dated 29.08.2013, the petitioner preferred an Appeal before the 1st respondent herein on 23.09.2013, however the 1st respondent did not take any action on the said appeal. Hence, the petitioner has filed this writ petition with the above said prayer.

3.Learned Special Government Pleader appearing for respondents submitted that the present petition has become infructuous since as against the impugned order dated 29.08.2013, the petitioner filed an appeal before the 1st respondent on 23.09.2013, that appeal was rejected by the 1st respondent on 26.12.2013 and, hence this Court may grant liberty to the petitioner to work out his remedy in a manner known to law. The above stand of the respondents is not disputed by the learned counsel for the petitioner.

4. Recording the said submission made by the learned Special Government Pleader, the petition is closed as having become infructuous and, therefore, nothing survives for consideration in this petition. Accordingly, this writ petition is closed as infructuous. However, the petitioner is at liberty to work out his remedies in a manner known to law, if so advised. Consequently connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs

To

1.The Secretary to Government,
Government of Tamil Nadu,
Home (Prisons) Department,
Fort. St. George, Chennai 09.

2.The Principal Secretary,
Home (Prisons) Department,
Chennai

3.The Additional
Director General of Police and
Inspector General of Prisons,
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Chennai 600 008.

4.The Assistant,
Central Prison,
Cuddalore.

+1cc to Government Pleader, S.R.No.26343

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LC (CO)
KKV/27/08/2020



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