

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 07.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 34492 OF 2013

A.Gnanasekaran

.. Petitioner

- Vs -

1. The State of Tamil Nadu
rep. By the Secretary to Government
Handlooms, Handicrafts, Textiles &
Khadi Department, Fort St. George
Chennai 600 009.
 2. The Joint Director of Sericulture
O/o The Director of Sericulture
No.249, II Agraharam, Salem 636 001.
 3. The Assistant Director of Sericulture
Vaniyambadi, Vellore District.
 4. The Chief Conservator of Forests &
The Director of Sericulture
No.249, II Agraharam, Salem 636 001.
- .. 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 entire records pertaining to the order passed by the 2nd respondent herein vide his proceedings Nos. Na.Ka.No.12231/Pa.a2/2011 dated 20.08.2011 and Na.Ka. No.1375/Pa.a4/2013 dated 20.02.2013 and quash the same as illegal, arbitrary, unreasonable, being violative of rules and principles of natural justice thereby direct the 2nd respondent herein to fix the petitioner's name in the appropriate place over and above Mr R.Mani (492) 2.Mr.C.Ramalingam (529A) and Mr.S.Kumaravelu (535) and consequently promote the petitioner as Assistant Inspector of Sericulture notionally with effect from 18.09.2012 the date on which the petitioner's juniors were promoted with all monetary and service benefits.

For Petitioner : Mr. A.R.Suresh

For Respondents: Mr. A.N.Thambidurai, Spl. GP

ORDER

It is the case of the petitioner that he was working in the respondent Department and on 3.2.88, the 2nd respondent issued a tentative seniority list of Junior Inspectors of Sericulture. Thereafter, on 15.05.01, the respondent published the revised seniority list, however, without considering the objections submitted by the petitioner on various dates. Once again the petitioner made a representation on 10.09.01. Though the respondent assured that the representation of the petitioner and other similarly placed persons would be considered at one stretch, however, the present impugned order was passed by the respondent on 20.2.13 stating that the petitioner has filed the representation beyond the period of three years and, accordingly summarily rejected the petitioner's representation. Hence, the present writ petition by the petitioner.

2. Learned counsel appearing for the petitioner submitted that though the petitioner did not challenge the original seniority list published in the year 1988, but, however, made objection with regard to the revised seniority list dated 17.5.01 on 10.9.01 itself, which is well within the time. However, without properly considering the same on merits, the present impugned order has been passed on the ground that the application is time barred. Therefore, the same is liable to be interfered with.

3. Learned Special Government Pleader appearing for the respondent fairly conceded that the order has been passed without considering the representation filed by the petitioner, which is well within time and, therefore, this Court may remand the matter back to the Director for consideration on merits.

4. This Court heard the learned counsel appearing on either side and perused the materials available on record.

5. It is evident from the records that as early as on 10.9.01 the petitioner has submitted his objections to the revised seniority list dated 17.5.01. However, the respondents, without properly applying their mind to the said fact, has rejected the representation of the petitioner on the ground that it is time barred, which is wholly unsustainable as it is against the rules. Though very many counter contentions have been raised in the counter by the respondents, however, it is to be pointed out that what is not reflected in the impugned order cannot be improved in any manner by filing a comprehensive counter. However, in view of the consent expressed by the learned counsel on either side, this Court, without going into the merits of the issue, is inclined to remand the matter back to the 2nd respondent for fresh consideration on merits and in

accordance with law.

6. Accordingly, the writ petition is disposed of by remanding the matter back to the 2nd respondent for fresh consideration of the representation of the petitioner dated 10.9.01 on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
Handlooms, Handicrafts, Textiles &
Khadi Department, Government of Tamil Nadu
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+1cc to the Government Pleader Sr.No.26464

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