

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11899 of 2020
and W.M.P.No.14619 of 2020

M.Seyadhu Sulaiman Ussain .. Petitioner

-vs-

The High Court of Judicature at
Madras, Rep. by its Registrar General,
High Court, Chennai - 104. .. Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondent to publish the seniority list of Civil Judges recruited in the year 2012 in pursuant to G.O. (4D) No.71, Home (Courts-I) Department dated 10.09.2012 on the basis of the merit and consequently to direct the respondent to promote such Civil Judges to the post of Senior Civil Judges only on the basis of merit and without regard to the roster within the period that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Khan,
Sr. Counsel
for M/s.Ajmal Associates

For Respondent : Mr.B.Vijay

ORDER

(Order of the Court was passed by The Hon'ble Chief Justice)

The present writ petition has been filed by a 2012 batch Civil Judge contending that the seniority list should be prepared appropriately, as it is likely to have an effect on future promotions. For this, learned counsel for the petitioner has invited the attention of the Court to the litigation that

had ensued before this Court and also to the stand taken by the High Court in this regard, for which he has pointed out paragraph 6 of the counter-affidavit filed by the Registrar General in W.P.Nos.20449 to 20452 of 2015. Paragraph 6 of the said counter affidavit is extracted hereinunder:-

"6.In these circumstances, the representation made by the petitioners for refixation of their seniority with reference to the merit ranking was received by the 1st respondent. It was also seen that similar claims had been made from Civil Judges recruited in 2003 and 2012 batches also. Hence, the matter was placed before the Hon'ble Administrative Committee in its meeting held on 21.03.2016. The Hon'ble Committee, taking note of the judgment reported in 2003 (5) SCC 604 in Bimlesh Tanwar's case and Rule 8(4) of the Tamil Nadu State Judicial Service (Cadre and Recruitment Rules), resolved to accept the request of the Judicial Officers and prepare the seniority list on the basis of the said decision of the Hon'ble Supreme Court. Accordingly, the 1st respondent has prepared seniority lists of Civil Judges recruited during the years 2003, 2009 and 2012. The said lists (Existing list and Revised list) are submitted in a sealed cover before this Hon'ble Court. Further, it is submitted that the petitioners herein have filed petitions for impleading the affected individuals viz., those Civil Judges whose seniority is likely to be affected on account of refixation, and the same was allowed in M.P.Nos.3/2015 in W.P.Nos.20449/2015 to 20452/2015. Hence taking note of all these aspects, the 1st respondent submits that suitable orders may be passed by this Hon'ble Court which will be followed and implemented by the 1st respondent."

2.The question of determining the seniority either on the basis of communal roster system or on the basis of rank obtained by a candidate on merit became subject matter of a long drawn litigation before this Court and also up to the Apex Court. The judgment of this Court dated 15.11.2019 is reported in 2019 (6) CTC 750 (K.Raja and Others vs. Additional Chief Secretary to Government, Highways and Others).

3.This Court ultimately held that the seniority has to be fixed on the basis of ranking of the candidate and against the said judgment, an SLP came to be filed before the Apex Court being Special Leave to Appeal Nos.2861-2876/2020, that were finally dismissed on 06.07.2020. The order is extracted hereinunder:-

"Permission to file Special Leave Petition(s) is granted.

Application for impleadment is allowed to the extent of intervention.

There is absolutely no merit in these petitions. The Special Leave Petitions are, accordingly, dismissed.

Pending application(s) is/are disposed of."

4.It is pointed out by the learned counsel that a Review Application has been filed praying for review of the judgment dated 15.11.2019 and it is stated to be pending at the SR stage, being Review Application SR No. 48721 of 2020.

5.Learned counsel for the High Court informs that it was on account of this litigative background that the matter could not be finalised, where the representation of the petitioner is under active consideration. We find from the records of this petition that representations dated 03.09.2018, 11.10.2019 and 13.03.2020 filed by the petitioner are said to have been despatched to the High Court with a reminder later on, on 30.07.2020.

6.Having considered the submissions raised and keeping in view the controversy involved, since the High Court is seized of the matter on the administrative side, we dispose of this writ petition with liberty to the High Court to decide the matter keeping in view the representation of the petitioner or such other material that may be necessary, preferably within a period of eight weeks.

7.Learned counsel for the High Court may, accordingly, communicate this order to the Registrar General for taking appropriate steps in the matter.

The Writ Petition is disposed of with the aforesaid observations. No costs. Consequently, W.M.P.No.14619 of 2020 is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar

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To

1.The Registrar General,
High Court of Judicature at
Madras,
High Court, Chennai - 104.

2. The Section Officer,
Legal Cell Section,
High Court, Madras-104

3. The Section Officer,
'B' Section,
High Court, Madras-104

W.P.No.11899 of 2020

SSV(CO)
GMY(04/09/2020)



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