

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 18-03-2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.6621 OF 2016

T.N.Latha

... Petitioner

-vs-

1.Union of India,
rep.by the Chairman-cum-Managing Director,
Bharat Sanchar Nigam Ltd.,
New Delhi-110 001.

2.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Circle,
Anna Salai,
Chennai-600 002.

3.The General Manager,
Bharat Sanchar Nigam Limited,
Thanjavur-613 007. ...

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records in O.A.No.1404/2013 on the file of Central Administrative Tribunal, dated 30.10.2015, quash the same and consequently direct the second respondent to grant promotion to the petitioner as Junior Accounts Officer with effect from 21.05.1992, on par with her batchmates consequential services and attendant benefits like seniority for further promotion.

For Petitioner : Mr.N.Poovanalingam

For Respondents : Mr.M.S.Velusamy

ORDER
(By Krishnan Ramasamy, J.)

This Writ Petition has been filed, challenging the order passed by the Central Administrative Tribunal, Madras Bench, in O.A.No.1404 of 2013, dated 30.10.2015.

2. Petitioner has filed O.A.No.1404 of 2013 before the Central Administrative Tribunal, seeking for a direction to the respondents to appoint her as Junior Accounts Officer with effect from 21.05.1992.

3. The Tribunal, after hearing both the parties, dismissed the above O.A. Challenging the said order, the petitioner has filed this Writ Petition, as stated above.

4. The case of the petitioner is that the respondents conducted a special examination for SC/ST Category for promotion to the post of Junior Accounts Officer in November, 1990. The J.A.O. Examination contained two parts, namely, Part-I and Part-II. The petitioner was permitted to appear for Part-I examination, conducted in November, 1990 and the result was announced on 11.06.1991. However, the respondents withheld the result of the petitioner alone due to a dispute with regard to the community of the petitioner. Thereafter, the respondents conducted Part-II examination in June, 1991, but, the petitioner was not allowed to appear for the said examination. The petitioner finally cleared the Part-II examination in the year 2012 and thereupon was promoted to the post of Junior Accounts Officer. The further case of the petitioner is that she was eligible for the post of Junior Accounts Officer and, therefore, she was permitted to work as Junior Accounts Officer with effect from 19.07.1996 onwards in officiating capacity and the same is continued till-date.

5. Learned counsel for the petitioner would submit that as the petitioner was not allowed to participate in the J.A.O. Part-II Examination in the year 1992, she was not able to be qualified; thereafter, she was qualified in the said examination in the year 2012 and, therefore, she should be accorded promotion with effect from the year 1992. According to him, the Tribunal failed to consider all the aspects and wrongly dismissed the O.A. filed by the petitioner and, therefore, the order passed by the Tribunal is to be set aside.

6. Per contra, learned counsel for the respondents would submit that there was a cloud over the Community Certificate issued to the petitioner; therefore, the petitioner filed a suit before the Civil Court and got the decree in her favour, but the said decree was challenged by the Department in

A.S.No.22 of 1985, which was allowed by the first appellate Court, reversing the decree passed by the trial Court and, thereafter, as against the decree passed in A.S.No.22 of 1985, S.A.No.1249 of 1997 was filed by the petitioner before this Court and the same was allowed, upholding the decree passed by the trial Court and confirming the community status of the petitioner as Scheduled Tribe. He would further submit that since there was a dispute over the community certificate issued to the petitioner, she was not allowed to participate in the J.A.O. Part-II Examination, conducted by the Department in the year 1992; however, she was permitted to write the said examination from the year 1995 onwards continuously; she also participated in all the examinations, but was not able to qualify in the said examination till the year 2012, and, finally, she cleared the examination only in the year 2012. Immediately, after clearing the examination, she was promoted as Junior Accounts Officer and, therefore, she cannot insist on the respondents to give promotion to her from the year 1992, following her clearing off the examination in the year 2012. According to the learned counsel, the Tribunal considered all the aspects and rightly dismissed the O.A. filed by the petitioner and, therefore, there is no need for this Court to interfere with the order passed by the Tribunal.

7. We have heard the learned counsel for the parties and also considered the material available on record.

8. Petitioner was originally appointed as a Time Scale Clerk under the Scheduled Tribe quota on 06.12.1976 in the office of the Divisional Engineer, Telegraph Department, Thanjavur. A dispute with regard to the community of the petitioner arose in the year 1981. Therefore, the petitioner filed a suit in O.S.No.179 of 1981 on the file of District Munsif Court, Thanjavur, which was decreed in her favour with regard to the status of Scheduled Tribe on 23.12.1983. As against the decree passed by the District Munsif Court, an appeal vide A.S.No.22 of 1985 was filed by the Department before the first appellate Court, namely, Subordinate Court, Thanjavur, by which, the decree passed by the District Munsif Court was reversed on 21.07.1987. Again, as against the decree passed by the first appellate Court, S.A.No.1249 of 1987 was filed by the petitioner before this Court, which was allowed on 06.08.1999, setting aside the decree passed by the first appellate Court and restoring the decree passed by the trial Court, thereby confirming the community status of the petitioner as Scheduled Tribe. Since A.S.No.22 of 1985 was allowed in favour of the Department, the Department had no other option but to withhold the result of the petitioner for J.A.O. Part-I Examination conducted in the year 1991. Petitioner was not allowed to appear for J.A.O. Part-II Examination at that time. However, she was

allowed to appear for the said examination from the year 1995 to 2012. She was not able to qualify in the said examination till 2012. Under those circumstances, immediately after clearing off the J.A.O. Part-II Examination, the Department granted promotion to the petitioner as Junior Accounts Officer in the month of December, 2012.

9. Now, the issue to be decided in the present case is, whether the petitioner is entitled to claim promotion with effect from the year 1992, when she cleared the J.A.O. Part-II Examination in the year 2012.

10. The fact remains that the Department had not allowed the petitioner to participate in the J.A.O. Part-II Examination in the year 1991 due to a dispute over the Community Certificate of the petitioner. However, the Department had allowed the petitioner to participate in all the J.A.O. Part-II Examinations conducted from the year 1995 to 2012. Though she participated in the said examinations over a period of 17 years, she was not able to clear the same. Finally, she cleared the examination only in the year 2012.

11. When the petitioner was not able to clear the qualifying J.A.O. Part-II Examination for a period of 17 years, by no stretch of imagination, this Court can be expected to give any credence to the case of the petitioner that since the Department had not provided an opportunity to participate in the examination in the year 1992, she was not able to get promotion since then. Having cleared the examination only in the year 2012, in our considered opinion, she cannot make any claim for retrospective promotion from the year 1992. The Tribunal, taking into all the above aspects into consideration, has rightly dismissed the O.A., filed by the petitioner.

12. In such view of the matter, we do not find any merit in this Writ Petition and it is dismissed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

dixit

To

1. The Chairman-cum-Managing Director
Union of India,
Bharat Sanchar Nigam Ltd.,
New Delhi-110 001.

2.The Chief General Manager,
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Chennai-600 002.

3.The General Manager,
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Thanjavur-613 007.

+1 cc to Mr.N.Poovanalingam Advocate sr23986

+1 cc to Mr.M.S.Velusamy Advocate sr23976

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