BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 20.07.2020
DELIVERED ON : 03.08.2020
CORAM:
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
W.P.(MD)No.2177 of 2014
and
M.P.(MD).No.1 of 2014

V.Ramasubbu .. Petitioner

-vs-

1.The Commissioner,
Treasuries and Accounts Department,
Saidapet, Chennai-15.

2.The Secretary to Government,
Finance Department,
Fort St. George,
Chennai-09. .. Respondents

[2nd respondent is impleaded as per theorder of this Court made in M.P.(MD). No.2 of 2014 dated 03.08.2020 by TKRJ]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order dated 03.05.2000 bearing RC.No.85373/99Q1 passed by the respondent and quash the same and direct the respondent to give notional promotion as District Treasury Officer and to pay all the attendant benefits, thereby enabling the petitioner to refix the petitioner's pensionery benefits in accordance with law.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.Gunaseelan Muthiah
Additional Government Pleader

ORDER

The writ petition has been filed by the petitioner for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order dated 03.05.2000 bearing RC.No.85373/99Q1 passed by the respondent and quash the same and direct the respondent to give notional promotion as District Treasury Officer and to pay all the attendant benefits, thereby enabling the petitioner to refix the petitioner's pensioner benefits in accordance with law.

2. The service matrix of the petitioner that are required for the determination of this writ petition are as under:

(a)The petitioner was appointed as Junior Assistant in the year 1960 in the Agriculatural Department and he was promoted as Assistant during the year 1969 and subsequently he was promoted as Superintendent during the year 1987. He was selected and promoted for the post of Assistant Accounts Officer in the first respondent department on 13.03.1995 and the petitioner joined the duty at Ramanathapuram as Assistant Accounts Officer and attained superannuation on 31.07.1998.

(b) The petitioner's seniority was fixed as 8/86 in the Agricultural Department based on which a panel was prepared by the first respondent for the post of Assistant Accounts Officer, dated 02.09.1994 in which the petitioner was placed in the 27th place. Thereafter before the Tamilnadu Administrative Tribunal in T.A.No.452 of 1992, a direction was issued directing the respondents therein to give seniority in the feeder category of Junior Assistant. As per the order of the Tribunal, the Commissioner of the Agriculture had re-fixed the petitioner's seniority in the post of Superintendent as 41(a)/84 by his proceedings dated 23.08.1994.

(c) The petitioner's seniority is refixed by the Agricultural Department as 41(1)/84 the Assistant Director of Agriculture, Thiruvadanai has sent a letter dated 14.09.1994 to the Commissioner of Agriculture, Chennai stating that the petitioner's seniority had been refixed, so the same shall be intimated to the first respondent herein. Subsequently, the petitioner made a representation to the first respondent herein on 19.05.1995 to refix the petitioner's seniority in the first respondent's department.

(d) The petitioner attained the age of superannuation on 31.07.1998. So he was constrained to file an O.A.No.6668 of 1999 before the Tamil Nadu Administrative Tribunal to dispose of the petitioner's representation dated 02.09.1998. The same was ordered directing the respondent therein to dispose of the representation within a period of five months. The petitioner made a representation as per the order of the Tamil Nadu Administrative Tribunal to the first respondent herein on 16.12.1999. The Director of Treasuries and Accounts had issued memo dated 03.05.2000 stating that the petitioner's claim cannot be considered. Challenging the order passed by the first respondent, this writ petition is filed.

3. The respondents filed counter. Heard both sides and perused the records.

4. The learned counsel for the petitioner would contend that if his case is considered, he would had got two promotions ie., Accounts Officer and District Treasury Officer, ie., he would have been placed in the seniority panel of the year 1991. Due to the

inaction of the respondents herein to fix the seniority as per the refixed seniority in the parental department, the petitioner had lost his promotion.

5. The learned Additional Government Pleader submitted that the Assistant Accounts Officer post is a selection category. Appointment of personnel from other Department as Assistant Accounts Officer in Tamilnadu State Treasuries and Accounts Service is outside their regular line of promotion in their parent department. The seniority of the personnel selected for inclusion in the panel for appointment as Assistant Accounts Officer in Tamil Nadu State T&A Service in a year is fixed with reference to the date of regular appointment in the feeder categories at the time of their selection and issue of panel as per the special Rules for Tamilnadu State T&A service. Therefore any subsequent revision in the date of regularisation in the feeder category post in their parent department cannot have any consequential effect in the Assistant Accounts Officer panel as the Assistant Accounts Officer panel consists of personnel from various departments.

6. After perusing the averments in the affidavit and the counter affidavit, it is seen that the petitioner Mr.M.Ramasubbu was formerly working as Assistant Accounts Officer at the office of the Joint Director of Health Services, Ramanathapuram and retired from service on 31.07.1998, who was initially appointed as Junior Assistant in the Agricultural Department during the year 1960, subsequently promoted as Assistant during the year 1969, and thereafter promoted as Superintendent in the year 1987. Subsequently, based on the qualification as prescribed in the Tamil Nadu State Treasuries and Accounts Special Rules, the petitioner got promotion as Assistant Accounts Officer in Treasuries and Accounts Department by recruitment by transfer.

(a) Initially, the seniority of the petitioner has been fixed 8/86 in the parent department ie., Agricultural Department, based on which panel for the post of Assistant Accounts Officer had been issued. Subsequently, the seniority of the petitioner had been re-fixed in the cadre of Superintendent as 41(a)/84 by the Commissioner of Agriculture. (b) Consequently, the petitioner has made representation to revise his seniority in the cadre of Assistant Accounts Officer and the same had been rejected, on the ground that the parent departmental seniority has not been directly taken into account for fixing the inter-se-departmental seniority and there is no rule provision to revise the seniority in the cadre of Assistant Accounts Officer consequent on revision of his seniority in the feeder category post of superintendent in his parent department, viz., Department of Agriculture.

7. Admittedly, the petitioner was initially recruited in the Agricultural Department and had two promotions. Thereafter, the petitioner was promoted as Assistant Accounts Officer by recruitment by transfer into the respondent department, namely, Tamil Nadu State Treasuries and Accounts Department and therefore governed by the rules prescribed in Tamil Nadu State Treasuries and Accounts Sub Rules (in short rules). Taking into consideration the service matrix of the petitioner, Rule 11 and Rule 3(g) are applicable to the service matrix of the petitioner.

8. The Rule 11 of the Tamil Nadu Treasuries and Accounts Service Special Rules, it has been stipulated that for the purpose of appointment to the post in Class IV, the inter-se-seniority of the persons selected from the posts of Sub-Treasury Officer, Superintendents and from the posts in the feeder categories namely, Accountants, Superintendents etc., in the department other than Treasuries and Accounts Department shall be fixed with reference to the dates of their regular appointment in the post of Sub-Treasury Officer or Superintendents grade and in the said feeder categories respectively.

9.The Rule 3(g) of the Tamil Nadu State Treasuries and Accounts Service Special Rules contains totally the following four provisions:

(i) Out of every vacancies in Class IV, the first two vacancies shall be reserved for recruitment by transfer from Sub Treasury Officer and Superintendents in the Treasuries and Pay and Accounts Offices and that the remaining three vacancies shall be reserved for recruitment by transfer from among persons holding the post of Superintendents, Accountants or Auditors borne on the Tamil Nadu Ministerial Service in the scale of pay not less than that of Superintendents in any other services or from among the holders of the post of Commercial Accountants in the Tamil Nadu Ministerial Service. (G.O.Ms.No.85, Fin(T&A-1)Dept, dated 13.03.2008 (w.e.f. 13.03.2008).

(ii) Provided that if in any year, the aforesaid, ratio cannot be followed for want of qualified persons from Sub Treasury Officer and Superintendent in the Treasuries and Accounts Department the said reserved vacancies shall be filled in by recruitment by transfer from the posts specified in item(ii) in Col.2 in the Table under this Rule and vice versa (G.O.Ms.No.903, Fin (T&A), Dept., dated 13.08.1990).

(iii) Provided further that to maintain equitable representation not less than one person from each department shall be chosen subject to availability.

(iv) Provided also that no department shall have a representation of more than three times the combined cadre strength of posts of Assistant Accounts Officer, Accounts Officer and Chief Accounts Officer in each department. (w.e.f 15.06.2002) (G.O.Ms.No.335, Fin(T&A-1) Dept. dated 17.06.2004.

10. This Court finds that the 60% ratio of Assistant Accounts Officer posts are filled up from the eligible persons belonging to 50 other eligible Departments. Therefore Agriculture Department is not the only department coming under 60% quota and hence even though petitioner's seniority has been re-fixed in his parent Department, it has not been directly taken into account for fixing the inter-se-departmental seniority. Further more, Assistant Accounts Officer post is a selection category, appointment of personnel from other department as Assistant Accounts Officer in Tamil Nadu State Treasuries and Accounts service is outside their regular line of promotion in their parent department.

11. On a combined reading of the Rule 3(g) and Rule 11of Tamil Nadu State Treasuries and Accounts Service Special Rules, it is seen that the seniority of the personnel selected for inclusion in the panel for appointment as Assistant Accounts Officer in Tamil Nadu State Treasuries and Accounts service in a year is fixed with reference to the date of regular appointment in the feeder categories at the time of their selection and issue of panel as per the special rules for Tamil Nadu State Treasuries and Accounts service. Therefore, any subsequent revision in the date of regularization in the feeder category post in their parent department cannot have any consequential effect in the Assistant Accounts Officer panel as the Assistant Accounts Officer panel consists of personnel from various departments.

12. Since the petitioner was promoted as Assistant Accounts Officer in Treasuries and Accounts Department by recruitment transfer method and his promotion has been made based on the Special Rules of Treasuries and Accounts Department and as per the Special Rules, as discussed supra goes to show that to inter-se-seniority has been fixed based upon the joining of the Supervisor post in the parental department. Therefore the request of the petitioner to revise the seniority in the post of Assistant Accounts Officer in the Tamil Nadu State and Treasuries and Accounts Service consequent upon refixation of the seniority in the feeder category of the Superintendent in his parental department, namely, department of Agricultural cannot be complied with. Further more, the petitioner department is not the only department is being considered since various other quasi department personnels are also considered to the post of Assistant Accounts Officer also assumes significance. If at all the revision in respect of seniority in the feeder category of

the post of Superintendent by the head of the department of the concerned parent department will have benefit of monetary benefits and the same will not have any impact in preparing the panel for the post of Assistant Accounts Officer in the respondent department and hence, the claim of the petitioner cannot be fit into the rules as rules are very clear and the petitioner's request cannot be considered and the order passed by the respondent in rejecting the request is well within the interpretation of the rules and the same is sustainable in law. 13. Accordingly, this writ petition is dismissed. No Costs. Consequently, connected M.P.(MD).No.1 of 2014 is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PJL

To

1.The Commissioner,
Treasuries and Accounts Department,
Saidapet,
Chennai-15.

2.The Secretary to Government,
Finance Department,
Fort St. George,
Chennai-09.

+1 CC to The Special GP SR-13560.

ORDER
MADE IN
W.P.(MD)No.2177 of 2014
03.08.2020

CS (21.08.2020) 6P 4C