



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2020

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.7166 of 2015

and

M.P(MD)No.1 of 2015

M.Balakrishnan

... Petitioner

vs.

1)The Regional Manager,
Pudukkottai Region,
Tamilnadu Civil Supplies Corporation,
Kalyanaramapuram 1st street,
Pudukkottai.

2)The Managing Director,
Head Office,
Tamilnadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk,
Chennai-600 010.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining the proceedings of the 2nd respondent in his proceedings AE2/73931/07 dated 10.04.2008 and quash the same and directing the respondents to fix the petitioner in the seniority list from the date on which the petitioner joined as watchman in the Administrative section of the office of the respondents.

For Petitioner : Mr.N.Tamilmani

For Respondents : Mr.D.Mayarajan

ORDER

The petitioner is aggrieved against the proceedings of the 2nd respondent dated 10.04.2008 whereby the seniority of the petitioner was fixed at serial No.64 by considering the commencement of service only from 28.01.2008 instead of 12.02.2005 as Watchman.



2.The case of the petitioner is that he was originally appointed as a Technical Assistant at the 1st respondent office on 06.05.1991. Thereafter, through the proceedings of the 1st respondent dated 10.02.2005, the petitioner was posted as Watchman. Even though the petitioner was qualified for a better post, he obeyed the said order and joined duty as Watchman on 12.02.2005. Thereafter, by passing the impugned order, the petitioner has been placed at serial No.64 by showing his redeployment date as 28.01.2008. This action of the 1st respondent affects the petitioner's seniority about three years. Hence, he has filed this writ petition to quash the said order of the 2nd respondent. In support of his contention, he would rely on the decision in W.P(MD) No.1157/2010 dated 14.12.2012.

3.A counter affidavit has been filed by the 1st respondent in which, it is stated that the petitioner was originally appointed as Apprentice Helper on 24.04.1990 not as a Technical Assistant as stated in the affidavit. The 1st respondent revised the staffing pattern and due to such revision, the petitioner's post became surplus and therefore instead of retrenching him, he was appointed as a Watchman in the general side with the service condition applicable to the post of Helper and based on the board approval, vide proceedings dated 10.04.2008, the petitioner was absorbed to general side and he joined duty on 17.04.2008. Therefore, the petitioner is entitled to the service conditions which are eligible to the persons working in the general side only from 17.04.2008.

4.Heard both sides.

5.Perusal of record shows that when the petitioner was posted as Watchman by order dated 10.02.2005, the respondents cannot pass the impugned order as if he was posted as Watchman in the general side on 28.01.2008 which will affect his seniority and therefore, the respondents are not justified in preparing the list treating the date of joining of the petitioner as 28.01.2008 instead of 12.02.2005 and there is absolutely no convincing reason in the counter filed by the 1st respondent as to the date of joining of the petitioner in the general side. Therefore, in my considered opinion, the impugned order is liable to be set aside as to the date of joining of the petitioner as Watchman on 28.01.2008 instead of 12.02.2005.

6.Accordingly, the impugned order dated 10.04.2008 fixing the seniority of the petitioner at S.No.64 is set aside and the respondents are directed to rework the seniority by taking note that the petitioner was Watchman from 12.02.2005 and accordingly refix the seniority and pass suitable orders within a period of eight weeks from the date of receipt of a copy of this order.



With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1)The Regional Manager,
Pudukkottai Region,
Tamilnadu Civil Supplies Corporation,
Kalyanaramapuram 1st street,
Pudukkottai.

2)The Managing Director,
Head Office,
Tamilnadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk,
Chennai-600 010.

+1 CC to Mr.D.MAYARAJAN, Advocate (SR-217[F] dated 03/01/2020)

+1 CC to Mr.N.TAMILMANI, Advocate (SR-173[F] dated 03/01/2020)

ORDER MADE IN
W.P(MD)No.7166 of 2015
DATED : 03.01.2020
(2/12)

MK (24.01.2020) 3P 5C