



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.12189 OF 2009 &
M.P.NOS.1 AND 2 OF 2009

P.Nagarajan

... Petitioner

Vs

1. State of Tamilnadu,
Rep. by its Secretary,
Commercial Taxes and Registration Department,
Fort St. George, Chennai-9.
2. Inspector General of Registration,
Registration Department,
Santhome High Road, Chennai-28.
3. A.Dayabaran
District Registrar (Audit),
Villupuram District,
Tamil Nadu.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to G.O.(Ms) No.109 dated 13.11.2008 and G.O(2D)No.179 dated 28.11.2008 issued by the 1st Respondent and quash the same in so far as the 3rd Respondent's promotion to the post of District Registrar overlooking the petitioner is concerned and consequently direct the 1st and 2nd Respondents to consider and promote the Petitioner to the post of District Registrar with effect from 28.11.2008 before the 3rd Respondent's promotion as much with due seniority, arrears of salary and all consequential benefits.

For Petitioner : Ms.Vaigai, Senior Counsel
for Ms.S.Meenakshi

For Respondents: Mr.S.John J.Raja Singh (for R1 & R2)
Government Advocate

Mr.V.Srikanth (for R3)



O R D E R

The petitioner has challenged G.O.Ms.No.109 dated 13.11.2008 read with G.O.Ms.No.179 dated 28.11.2008 in terms of which the 3rd respondent was empaneled to the post of District Registrar on 28.11.2008 and subsequently appointed in the aforesaid post.

2.The petitioner was appointed as a Junior Assistant in the Registration Department on 05.09.1977, subsequently promoted to the post of Assistant in the year 1984. The 3rd respondent was appointed as Junior Assistant on 01.01.1978 and promoted to the post of Assistant on 26.05.1983. The entry of the petitioner into the Registration Department was prior to that of R3 and hence, he would contend that he be reckoned for promotion to the post of Sub-Registrar Grade-II, prior to R3.

3. This issue is no longer res integra in the light of the decision of the Tamil Nadu Administrative Tribunal (Tribunal) in O.A.No.392 of 1989, confirmed by this Court on 24.02.2005 in W.P.Nos.17828 to 17832 of 2000. The issue that had come up for consideration before the Tribunal and thereafter before the High Court related to disparity in the strength of Junior Assistants within various Districts in the State of Tamil Nadu.

4. The disparity was the cause of differences in opportunities for promotion within the cadre and came to be questioned by several individuals before the Administrative Tribunal. The case put forth was that, rather than take into account the date of entry in the position of Assistant, which might vary depending on the opportunities available within the specific district to which the junior assistants belong, the better course of action would be to take into account date of entry into service in the Department, per se. This would be a common and uniform denominator that would ensure parity in their growth within the Department.

5. The case of the petitioner came to be accepted by the Tribunal and subsequently confirmed by the High Court, which categorically stated that the seniority of the employees be reckoned from date of initial appointments in the category of Junior Assistant. In so far as the date of appointment of the petitioner admittedly precedes that of R3, the State fairly accepts the position he must continue in seniority qua appointment to the position of Assistant as well. This is recorded.

6.This writ petition is pending from 2009 and much water has flowed under the bridge in the interim. Promotion panels have been constituted for subsequent years and three individuals



by name Mr.D.Arumugam, Mr.P.Chandrasekaran and Mr.G.Anburaj, who had entered service on 04.10.1977, 18.10.1977 and 15.12.1977 respectively had been promoted, overlooking the petitioner, whose regularization as Junior Assistant was on 05.09.1977. The representation filed by the petitioner on 02.09.2011 before the 2nd respondent, the Inspector General of Registration, bringing to his notice the discrepancies in the constitution of the subsequent panels has come to be rejected on 22.10.2012. The petitioner has not chosen to challenge the aforesaid order.

7.Be that as it may, this Court is concerned with the proper fixation of seniority in a holistic manner and hence must take note of the circumstances in entirety, including those caused by order dated 22.10.2012. I hence mould the relief available to the petitioner, accordingly. All counsels before me, including specifically learned Government Pleader, would agree on this score.

8. In this context, learned Government Advocate circulates written instructions that echo the ratio of rejection order dated 22.10.2012, the argument being that the petitioner had on, 14.09.1986, being the critical date, not completed two years of service and hence could not be construed to be a permanent member in the category of Assistant. This contention is not liable to be accepted as it would involve revisiting the issue that has been considered and laid down by the Administrative Tribunal and settled thereafter by the High Court.

9.In fact, the categoric conclusion of both the Tribunal as well as this Court are to the effect that the only relevant and sole parameter to determine seniority would be the date of regularization of the individual concerned in the category of Junior Assistant. Undisputably, the date of regularization of the petitioner in this case pre-dates that of the aforesaid three individuals as well.

10.In fine, the token defence putforth by the respondents is rejected, petitioner succeeds and the fixation of his seniority is to be over and above that of R3 as well as the three individuals named above.

11. R3 as well as Mr.D.Arumugam, Mr.P.Chandrasekaran and Mr.G.Anburaj have superannuated and thus there will be no impact to their terminal benefits by virtue of this order. Only the petitioner shall be entitled to all consequential benefits of this order, to be quantified by R1 & R2 and paid over within a period of six (6) weeks from today.



12.This writ petition is allowed as above. No costs.
Connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Secretary,
Commercial Taxes and Registration Department,
Fort St. George, Chennai-9.
2. Inspector General of Registration,
Registration Department,
Santhome High Road, Chennai-28.
3. A.Dayabaran
District Registrar (Audit),
Villupuram District,
Tamil Nadu.

+1cc to Ms.S.Meenakshi, Advocate, S.R.No.44629

+1cc to the Government Pleader, S.R.No.44550

W.P.No.12189 of 2009 &
M.P.Nos.1 and 2 of 2009

SJ(CO)
PM/12/11/2021