

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.03.2021

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.33038 of 2007

P. Devanathan

.. Petitioner

Vs.

1. The Secretary to Government,
Commercial Taxes Department,
Chennai - 600 009.
2. The Inspector General of Registration,
Chennai - 600 028.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in Lt.No.4875/H2/2007-4 dated 20.04.2007 and quash the same and directing the respondents to revise and refix the seniority of the petitioner as per the orders of the Tribunal and Hon'ble Division Bench.

For Petitioner : Mr. J. Muthukumaran

For Respondents: No Appearance

O R D E R

This writ petition is filed challenging the order dated 20.04.2007 and direct the respondents to revise and refix the seniority of the petitioner as per the orders of the Tribunal and Hon'ble Division Bench.

2. The case of the petitioner is that he was initially selected for the post of Junior Assistant and he joined service on 26.08.1965. Subsequently, he was promoted to the post of Assistant on 29.05.1973 and he was included in the approved list of candidates fit for appointment to the post of Sub-Registrar Grade II only on 05.03.1986. Due to belated

inclusion of his name in the seniority list and promotion, he was subsequently promoted as Sub Registrar Grade I only in the year 1996.

(b) The petitioner's claim is that the seniority in the post of Junior Assistant is to be taken into account for promotion to the post of Sub-Registrar Grade II, and not from the category of Assistant. As per Rule 4(b) (2) of the Tamil Nadu Registration Subordinate Service Rules, the seniority in the post of Junior Assistant alone is to be taken into account and not from the Assistant.

(c) One V.Narayanan filed an application in O.A.No.392/1989 before the Tribunal challenging the seniority on the ground that the seniority should be considered in the feeder category not from the Assistant post. The Tribunal after analysing all the facts, allowed the applications by holding that the Rules prescribed 8 years of service in the categories of Junior Assistant, Typist, Steno typist of which not less than two years shall be on duty as Assistant. Therefore, based on the said Tribunal order, the petitioner claimed the seniority on par with said Narayanan.

(d) Further according to the petitioner, he was appointed to the post of Junior Assistant through the Tamil Nadu Public Service Commission on merits by direct recruitment and joined service on 26.08.1965. The petitioner was promoted to the post of Sub Registrar Grade II in the year 1986, whereas, juniors to the petitioner have been placed over and above his seniority in the list. The petitioner also filed O.A.No.9072 of 1998 before the Tribunal for considering his representation in respect of inclusion of his name in the panel for promotion. The Tribunal has also passed order directing the respondents to consider the request of the petitioner. Accordingly, the respondents included the petitioner's name in the 2001-2002 panel as District Registrar. However, the petitioner has not been granted any further promotion. According to the petitioner, he has not been considered for further promotion of D.I.G. The further grievance of the petitioner is that one Shanmugam, who is junior to the petitioner was given promotion as Sub-Registrar Grade II on 01.10.1984 and Sub Registrar Grade I in 1993-94. Also one P.Gobinathan was also promoted in the year 1984 who is also junior to the petitioner. Therefore, the petitioner is now seeking to revise and refix the seniority of the petitioner as per the orders of the Tribunal and Division Bench order of this court.

3. The second respondent has filed counter affidavit, wherein it is stated as follows:

(i) On 26.12.2006, the second respondent herein has requested the Deputy Inspector General of Registration, Cuddalore, to obtain from the petitioner, the particulars of

Junior and Senior to the petitioner. In reply to the said letter, the petitioner herein has stated that on 22.01.2007 he did not know any junior promoted earlier to him as Sub Registrar Grade II and his only request is to fix his seniority on par with V.Narayanan. The said Narayanan was appointed as Junior Assistant on 01.04.1958 and the petitioner was appointed on 26.08.1965 and therefore he cannot be promoted on par with V.Narayanan since the petitioner was 7 years junior to him. Therefore, stating the above facts, the Government have replied in their letter No.4875/H2/2007-4 dated 20.04.2007 that there arise no re-fixation of seniority to the petitioner.

(ii) Thereafter, on 24.04.2007, the petitioner herein has submitted a representation that S.Shanmugam was appointed as Junior Assistant on 20.07.1966 and was promoted as Sub Registrar Grade II in the panel year 1983-1984. Therefore, the said retired officials service register was called for from the Deputy Inspector General of Registration, Madurai. In the meantime, the petitioner's service register was forwarded to the Accountant General by the Deputy Inspector General of Registration, Cuddalore, regarding his pension. The service register was received back on 10.09.2007 and his representation to fix his seniority on par with S.Shanmugam was forwarded on 18.10.2007 to the Government for revising his seniority in the cadre of Sub Registrar Grade II and so on and it is under process. This is also informed to the petitioner vide letter of Inspector General of Registration in Letter No.52424/A1/2007 dated 26.10.2007. But without giving time to pass orders on his representation, the petitioner has filed writ petition.

(iii) It is also submitted that the petitioner in his representation dated 24.11.2006 claimed his seniority on par with V.Narayanan since he had joined as Junior Assistant in the Registration department on 26.08.1965. The second respondent herein on 26.12.2006 has requested the Deputy Inspector General of Registration, Cuddalore to obtain from the petitioner, the particulars of Junior and Senior to the petitioner. In reply to the said letter, the petitioner herein has stated on 22.01.2007 that he did not know any junior promoted earlier to him as Sub Registrar Grade-II and his only request is to fix his seniority on par with V.Narayanan.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. On going through the counter filed by the second respondent, it is seen that the petitioner was appointed as Junior Assistant on 26.08.1965. But Narayanan was appointed as Junior Assistant on 01.04.1958. Therefore, the petitioner cannot be promoted on par with the said V.Narayanan since the petitioner was 7 years junior to the said V.Narayanan. In another representation made by the petitioner, it is stated that

Shanmugam was appointed on 1966 and he is junior to him and he got promoted as Sub Registrar Grade II earlier to him. From the reading of the counter filed by the 2nd respondent dated 30.08.2008, it is very clear that the said representation of the petitioner was under consideration by the second respondent at that point of time. The contention made by the 2nd respondent is without giving time to the second respondent to pass order on his representation, the petitioner has filed writ petition.

6. The Writ Petition is of the year 2007. Counter was filed by the second respondent on 30.08.2008. This court is not apprised of the subsequent developments taken place in the matter. Since it is stated in the counter of the 2nd respondent that the representation of the petitioner seeking to fix his seniority on par with S.Shanmugam was forwarded on 18.10.2007 to the Government for revising his seniority in the cadre of Sub Registrar Grade II, due to efflux of time, this court hope that seniority fixation of the petitioner would have been properly made on par with S.Shanmugam. In any event, this court deems it fit to pass the following directions:-

(i) The second respondent is directed to pass necessary orders in respect of fixation of correct seniority on par with S.Shanmugam in the cadre of Sub Registrar Grade II, after thorough verification of relevant records.

(ii) On such appropriate fixation of seniority, the respondents shall extend the eligible benefits to the petitioner, if not already granted.

(iii) On appropriate fixation of seniority, if the petitioner is entitled to notional promotion, the respondents shall give notional promotion and calculate the monetary benefits eligible to him and the same shall be granted to the petitioner, within one month from the date of receipt of a copy of this order.

(iv) The respondents are directed to file compliance report on or before 30.04.2021 before this court.

7. The Writ Petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AT/nvsri

To

- 1.The Secretary to Government,
Commercial Taxes Department,
Chennai - 600 009.
- 2.The Inspector General of Registration,
Chennai - 600 028.
- 3.The Assistant Registrar,
Writ Section
High Court Madras.
(to watch the report for reporting compliance)

+1cc to M/s. J.Muthukumaran, Advocate, sr no.15355

W.P.No.33038 of 2007

SRII(CO)
RMP(11/03/2021)



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