



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 6113 of 2009

L.Sivakumar

..Petitioner

Vs

1. Managing Director,
Tamil Nadu Civil Supplies Corpn. Ltd.,
No. 12, Thabmbusamy Road,
Chennai -600010.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corpn. Ltd.,
Dindigul Region, Dindigul.

..Respondents

Prayer: writ petition is filed under Article 226 of Constitution of India for Writ of Certiorarified Mandamus, calling for the records relating to Na.Ka.No.AE13/85278/07 dt. 24.03.2008 on the file of the first respondent and to quash the same and consequently to direct the respondents to prefix the seniority and keep the petitioner above his junior viz. Thiru S.Natarajasundaram with all monetary and all future/attendant benefits.

For Petitioner : Mr.V.Karunakaran

For Respondents : Mr.R.Neelakandan, AAG
Assisted by Mr.C.Selvaraj, GA

O R D E R

Challenge in the writ petition is the impugned order in Na.Ka.No.AE13/85278/07 dt. 24.03.2008, claiming to fix the seniority above the petitioner's junior viz. Thiru S.Natarajasundaram and to grant all monetary and all future/attendant benefits.



2. The petitioner got appointed as Bill Clerk as seasonal employee under the respondent-Corporation for more than 2258 days as per 1994 seniority list. Based on the petitioner's work in the respondent-Corporation, various employee's Union, representing the interest of the seasonal employees entered into settlement under Section 12 (3) of Industrial Disputes Act. In the settlement it was agreed by the respondent to fill up the regular vacancies for Class III & IV services from among the qualified seasonal employees. Subsequently, the Government has issued orders in G.O. Ms.No. 389 C.F & C.P Dept., dated 20.08.1992, stating that regular vacancies that arose in any region throughout the State and the qualified hands will be selected by drawing the centralised seniority list in the Head Office level according to total of broken periods of service among the seasonal employees and they will be recruited to the permanent regular vacancy in the respondent- Corporation. Based on the aforesaid G.O. Ms.No. 389 C.F & C.P Dept., dated 20.08.1992, the substantial and regular post of Assistant Quality Inspectors are being recruited from among the seasonal employees by the respondent-Corporation as and when regular vacancies arises.

3. One S. Natarajsundaram, who is junior to the petitioner was selected as Assistant Quality Inspector by proceedings dated 17.11.1997. Subsequently, the petitioner was appointed in the said post by proceedings dated 21.03.2001. In the seniority list prepared in the cadre of Assistant Quality Inspector, the petitioner's name was listed below his junior namely Natarajasundaram. Hence, the petitioner made representation to the respondent, requesting seniority and all monetary benefits, the same was rejected. Hence, the present writ petition.

4. The learned counsel for the petitioner has submitted that the said Natarajasundaram was appointed in the post of Assistant Quality Inspector on 17.11.1997, whereas the petitioner was appointed in the said post on 21.03.2001, therefore, the petitioner had made representation to the 2nd respondent to fix seniority in the cadre of Assistant Quality Inspector above his junior namely Natarajasundaram as per the seniority list issued for the Thanjavur District in the year 1994. The said request was rejected on the ground that the petitioner was junior to the said Natarajasundaram. According to the learned counsel for the petitioner, the request of the petitioner was not considered in proper prospective, hence, the rejection order passed by the respondent is liable to be set aside.

5. The respondents have filed the counter affidavit and service records of the petitioner and Natarajasundaram as additional typed set of papers.



6. On perusal of the service records in respect of Natarajasundaram, he entered into service on 01.10.1984, whereas the petitioner entered into service on 03.10.1984. Further, the seniority list prepared by the respondent in the cadre of Seasonal Bill Clerk as on 09.01.1990 shows that the seniority of said Natarajasundaram was fixed at No. 154, whereas the petitioner's seniority was fixed at No. 164.

7. The learned Additional Advocate General appearing for the respondents has submitted that the petitioner was appointed as Assistant Quality Inspector in the year 2001 and made representation seeking seniority only in the year 2007. It is further stated in the counter that the said S. Natarajasundaram was promoted as Assistant Quality Inspector on 21.10.1997 and he was ordered to be ousted from the said post on 28.04.2003 and again promoted to the post of Assistant Quality Inspector on 03.03.2006. But in the case of petitioner, the petitioner was promoted as Assistant Quality Inspector on 21.03.2001, subsequently reverted to the lower post and again promoted to the said post viz., Assistant Quality Inspector on 09.10.2006.

8. The learned Additional Advocate General appearing for the respondents has further submitted that the petitioner's representation was rejected based on the seniority list prepared during 1989-1990, which was drawn on 31.05.1990, by fixing the petitioner's seniority at Sl.No. 164 and the seniority of S.Natarajasundaram at Sl.No. 154 as such the petitioner is junior to S.Natarajasundaram. Therefore, the impugned order passed by the 1st respondent is valid and the writ petition is liable to be dismissed.

9. Heard both sides and perused the documents available on record.

10. As rightly pointed out by the learned Additional Advocate General appearing for the respondents, the petitioner has not challenged the final seniority list at the time of granting promotion to him, which was drawn on 31.05.1990. Based on the said seniority list, the petitioner was promoted to the post of Assistant Quality Inspector on 09.10.2006. Furthermore, it is clear that the state-wise seniority list was prepared for the cadre of Bill Clerk, Helper and Watchman and from this combined seniority list, Assistant Quality Inspector are appointed. Hence the promotions to the post of Assistant Quality Inspector were given based on the seniority list published in the feeder category.

11. The records reveal that both the petitioner and the S.Natarajasundaram were appointed in the year 1984 and their



seniority was fixed at Sl.No. 164 and 154 respectively. At the time of appointment itself, the petitioner was junior to the said S.Narajasundaram. Further, the petitioner was promoted as Assistant Quality Inspector on 21.03.2001 and subsequently he was reverted to the lower cadre and then promoted to the post of Assistant Quality Inspector on 09.10.2006. Whereas, the said S.Narajasundaram after promotion to the cadre of Assistant Quality Inspector, he was not reverted to his lower post but he was ordered to be ousted from service and again appointed to the post of Assistant Quality Inspector on 03.03.2006. The said promotions were given from the feeder category and based on the original seniority, drawn on 31.05.1990.

12. In view of the clear records, this Court finds no merits on the contentions raised by the learned counsel for the petitioner, challenging the seniority and the consequential monetary benefits on par with the said S.Natarajasundaram. Further, no other materials are placed by the learned counsel for the petitioner before this Court to substantiate his claim. In the absence of the same, this Court finds no valid grounds to interfere with the impugned order passed by the first respondent.

13. Accordingly, the writ petition is dismissed as devoid of merits. No costs.

Sd/-
Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu Civil Supplies Corpn. Ltd.,
No. 12, Thabmbusamy Road,
Chennai -600010.

2. The Regional Manager,
Tamil Nadu Civil Supplies Corpn. Ltd.,
Dindigul Region, Dindigul.

+1cc to Mr.C.Selvaraj, Advocate, S.R.No.67261

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NSK 24/01/2022