IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM:

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.Nos.4785 & 10126 of 2021
and
W.M.P Nos.5408, 5411 & 10744 of 2021

1. M.Sasikumar
   Assistant Commissioner (Commercial Taxes),
   Ram Nagar Circle,
   Coimbatore Division,
   Coimbatore.

2. D.Mythili,
   Assistant Commissioner (Commercial Taxes),
   Central II Circle - Erode Division,
   Tirupur - 2.

3. A.Arunmozhi
   Assistant Commissioner (Commercial Taxes),
   Selaiyur Assessment Circle,
   Chennai East Division,
   Chennai.

... Petitioners in W.P.No.4785 of 2021

R.Sobana
Assistant Commissioner (State Taxes).
Perur Circle, Coimbatore Division,
Coimbatore - 641018.

... Petitioner in W.P.No.10126 of 2021

Vs.

1. The State of Tamil Nadu represented
   by the Principal Secretary to Government,
   Commercial Taxes and Registration Dept.,
   Secretariat, Chennai - 600 009.

2. The Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai - 600 005.

... Respondents in both writ petitions

3. C.Sundaramoorthy
... Respondent in W.P.No.4785 of 2021

(R3 impleaded vide order dated 19.11.2021 made in WMP No.16074/2021 in WP.No.4785 of 2021)

PRAYER in W.P.No.4785 of 2021: Writ Petition filed under Article 226 of the Constitution of India, to issue writ of mandamus directing the respondents herein to prepare the interse seniority lists between the directly recruited Assistant Commissioners (Commercial Taxes) and the Transferees from directly recruited Group II candidates after duly revisiting and revising the inter se seniority lists right from DCTO Cadre, in compliance of the directions of the Division Bench of this Hon'ble Court as rendered in Judgment dated 28.07.2016 in W.P.Nos. 18264 of 2013 & 11118 of 2016 batch judgment and judgment dated 05.11.2020 in W.A.Nos.626 to 628 of 2020 and to issue interse seniority lists between the directly recruited Assistant Commissioners and Transferee Assistant Commissioners (CT) from the year 2014, calling for objections from the concerned parties, within a limited time frame and in any event prior to grant of any promotion/ad hoc promotion to the post of Deputy Commissioner (CT).

PRAYER in W.P.No.10126 of 2021: Writ Petition filed under Article 226 of the Constitution of India, to issue writ of mandamus directing the respondents to prepare a comprehensive seniority list from the cadre of DCTO/ACTO in relation to permanent post by taking into account the 4 principles laid down by this Hon'ble Court in a time bound manner.

W.P.No.4785 of 2021

For Petitioner : Mr.M.Ravi

For Respondent Nos. 1 & 2 : Mr. NRR.Arun Natarajan Additional Government Pleader

For Respondent No.3 : Mr.V.Vijay Shankar for M/s. Adithya Reddy

W.P.No.10126 of 2021

For Petitioner : Mr.E.K.Kumaresan

For Respondent Nos. 1 & 2 : Mr. NRR.Arun Natarajan Additional Government Pleader

C O M M O N   O R D E R

When the writ petitions came up for hearing, it was submitted by the learned counsel for the parties that in similar matters, which came up for hearing on 29.11.2021, in W.P.No.10154 of 2021, the same was disposed of as under:

> 2.In response to the Writ petition, a counter affidavit has been filed and at tail-end of the counter, it is stated as follows;
>
> "It is most humbly submitted that preparation and finalization of inter se seniority between the categories in the above cadre has been finalized from the year 1981 onwards and after obtaining orders of this High Court, the same will be published and finalized as per the Tamil Nadu Conditions of Service Act, 2016 and thereby the prayer of the petitioner would also be redressed.
>
> It is therefore, prayed that this Court may be pleased to pass suitable permitting the 2nd respondent to publish the inter-se-seniority list from the year 1981 to 2020 in the basis Assistant Commercial Tax Officer cadre and proceed thereon for finalizing the seniority to the permanent cadre in other category of post as per the orders of this Court in W.A.Nos.626, 627 and 628 of 2020."
>
> 3. In view of the statement made in the counter affidavit that the comprehensive seniority list in the subject cadre is ready and only seeking permission of this Court to publish the same, this Court in consideration of the limited prayer being sought and also the statement made in the counter affidavit, dispose of the Writ Petition as under;
>
> The first respondent is directed to publish the seniority in the categories of which are the subject matter of the present lis as stated in the counter affidavit and publish the same within a period of two weeks from the date of receipt of copy of this order.
>
> 4.At this, the learned counsel for the petitioner would request this Court to grant liberty to the petitioners to approach this Court in case they are still aggrieved by reflection of their seniority in the list to be

published by the first respondent.

5.With the above observations and granting such liberty, this Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

2. In these two cases also, the seniority in the cadre of Assistant Commissioner of Income Tax, is the subject matter of lis and the bone of contentions as between the parties is relating to the seniority between them.

3. As could be seen above, the department had already sought permission to publish the inter se seniority list from the year 1981 to till the year 2020 in the cadre of Assistant Commercial Tax Officer and while granting permission, the above writ petition came to be disposed of on 29.11.2021.

4. As regards the present seniority list is concerned, a direction to publish a comprehensive seniority list by the department would be the first step towards resolution to the dispute, as raised in the present writ petitions, as the prayer itself is for preparation of inter-se seniority list between the directly recruited Assistant Commissioners and the Transferees/parties.

5. It is needless to mention that in case, any particular class of employees is aggrieved by the assignment of ranking in the seniority list to be published, it is always open to them to work out their remedy in the manner known to law. In the absence of seniority list, the present writ petitions need not be heard as the state of inter-se seniority between the parties is in the state of fluidity which can only be settled on publication of the comprehensive inter-se seniority between the warring groups.

6. In the above circumstances, the Writ Petitions are disposed of. The petitioners and the private respondent are to await publication of seniority list which would ultimately govern the future promotions of all the stakeholders. No costs. Connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

sli/vsi

To

1. The Principal Secretary to Government of Tamil Nadu,
   Commercial Taxes and Registration Dept.,
   Secretariat, Chennai - 600 009.

2. The Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai - 600 005.

+2ccs to Mr.E.K.Kumaresan, Advocate, S.R.No.65172

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.64762

+1cc to the Special Government Pleader(Taxes), S.R.No.65509,65510

W.P.Nos.4785 & 10126 of 2021
and
W.M.P Nos.5408, 5411 & 10744 of 2021

GJ(CO)
SU(03/01/2022)