



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2021

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.8744 of 2021

and W.M.P.No.9276 of 2021

J.Johnson Davis .. Petitioner
Vs.

1. The Principal District Judge
Cuddalore.

2. Tr.Tamil Alagan

3. Tmt.Lalitha .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in connection with the impugned order passed by him in D.No.2295/2021 dated 15.03.2021 and quash the same and direct the respondents to refix and revise the seniority of the petitioner over and above the respondents 2 & 3 and grant him consequential benefits including promotion at par with his juniors and grant such other relief.

For the Petitioner : Mr.M.Muthappan

For the Respondents : Mr.E.K.Kumaresan
for Respondent 1

Mrs.Hema Sampath,
Senior Counsel for
Mrs.R.Meenal
for Respondents 2 & 3



ORDER
(Order of the Court was made by
the Hon'ble Acting Chief Justice)

WEB COPY In this writ petition the challenge is made to the order dated 15.03.2021 with a prayer to direct the respondents to revise the seniority and accordingly place the petitioner over respondents 2 and 3 with grant of consequential benefits.

2. A perusal of the order dated 15.03.2021 shows that, on the request of the petitioner vide application dated 12.01.2012, correction of date of appointment was made. The petitioner's joining of service was taken to be 30.09.2009 instead of 01.10.2009. In the seniority list for the post of Office Assistant appointed through paper publication, the petitioner was placed before Vijayalakshmi (Sl.No.547) and below Vinoth Kumar (Sl.No.545). The said proceedings was conveyed to the petitioner and no objection to the refixation of seniority was raised. After the said refixation, the petitioner was placed below M.Tamilazhagan (Sl.No.538) and D.Lalitha (Sl.No.541) in Sl.No.546. No objection to the said seniority was raised within a period of 3 years as per Rule 36(cc) of Tamil Nadu Judicial Ministerial Service Rules.

3. In the meanwhile, the persons alleged to be juniors to the petitioner were promoted to the post of Record Clerk based on the willingness submitted by them. No objection to the promotion was raised by the petitioner within a period of 3 years as per Rule 36(cc) of Tamil Nadu Judicial Ministerial Service Rules. Keeping the aforesaid into consideration, the representation of the petitioner for redetermination of seniority was rejected. It is precisely on this ground that, when no objection to the seniority was raised in the year 2012 followed by no objection at the time of promotion of the persons alleged to be junior to the petitioner, now the cause to challenge the seniority does not survive.

4. Learned counsel for the petitioner could not clarify as to why the objection to the seniority refixed in the year 2012 was not raised despite an information about it and also as to why the objection on the promotion of the alleged juniors was not raised in the year 2014 itself. It is more so when delay in challenge is fatal and accordingly the representation made by the petitioner was rejected by making reference to Rule 36(cc) of Tamil Nadu Judicial Ministerial Service Rules.

5. We do not find any illegality in the order under



challenge so as to accept the prayer of the petitioner to revise the seniority on any ground whatsoever. Delay in challenge to the seniority list is fatal and thereby it is not permissible beyond the period of 3 years as per Rule 36(cc) of Tamil Nadu Judicial Ministerial Service Rules.

6. We do not find a case in favour of the petitioner. Accordingly, W.P.No.8744 of 2021 is dismissed and W.M.P.No.9276 of 2021 is also dismissed. There will be no order as to costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

kst

To:

The Principal District Judge
Cuddalore.

+1cc to Mr.Muthappan, Advocate SR.No.67244
+1cc to Mr.Meenal, Advocate SR.No.67249

W.P.No.8744 of 2021

MG(CO)

GN(20/12/2021)