



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) Nos.14373 and 14374 of 2013

and

M.P. (MD) Nos.1,1, 2 and 2 of 2013

WEB COPY

W.P. (MD) No.14373 of 2013:-

K.Jeyachandran

... Petitioner

vs.

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
St.Fort George, Chennai - 600 009.

2.The Director of Town Panchayat,
Kuralagam 4th Floor, Chennai - 600 108. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order bearing Na.Ka.No.6793/2009/A7, dated 12.07.2013 issued by the 2nd respondent and quash the same insofar as it includes the name of the petitioner in the seniority list of E.O.Grade-II for the year 2011-2012 and consequently, to direct the second respondent to include the petitioner's name in the seniority list of E.O.Grade-I for the year 2002-2003 at the appropriate place.

W.P. (MD) No.14374 of 2013:-

J.Devaraj

... Petitioner

vs.

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
St.Fort George, Chennai - 600 009.

2.The Director of Town Panchayat,
Kuralagam 4th Floor, Chennai - 600 108. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order bearing Na.Ka.No.6793/2009/A7, dated 12.07.2013 issued by the 2nd respondent and quash the same insofar as it includes the name of the petitioner in the seniority list of E.O.Grade-I for the year 2011-2012 and consequently, to direct the second respondent to include the petitioner's name in the seniority list of E.O. Selection Grade for the year 2003-2004 at the appropriate place.



For Petitioner : Mr.Raja Karthikeyan
for Mr.T.Antony Arul Raj
For Respondents : Mr.M.Linga Durai
Government Advocate
(in both cases)

COMMON ORDER

W.P.(MD)No.14373 of 2013 is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the second respondent, dated 12.07.2013 insofar as it includes the name of the petitioner in the seniority list of E.O.Grade-II for the year 2011-2012 and consequently, to direct the second respondent to include the petitioner's name in the seniority list of E.O.Grade-I for the year 2002-2003 at the appropriate place.

2.W.P.(MD)No.14374 of 2013 is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the second respondent, dated 12.07.2013 insofar as it includes the name of the petitioner in the seniority list of E.O.Grade-I for the year 2011-2012 and consequently, to direct the second respondent to include the petitioner's name in the seniority list of E.O. Selection Grade for the year 2003-2004 at the appropriate place.

3.Heard Mr.Raja Karthikeyan, learned Counsel for the petitioner in both Writ Petitions and Mr.M.Linga Durai, learned Government Advocate appearing for the respondents in both Writ Petitions.

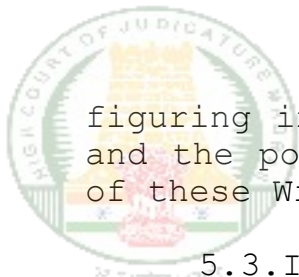
4.Though the petitioners are different in these Writ Petitions, the respondents are one and the same and prayers in both Writ Petitions are identical and hence, both the Writ Petitions are taken up together and being disposed of by way of this common order.

5.Brief facts, that are necessary for the disposal of these Writ Petitions, are as follows:

5.1.The petitioner in W.P.(MD)No.14373 of 2013 was appointed as Junior Assistant in the year 1995 and promoted as Executive Officer Grade-II in the year 2000 and further promoted as Executive Officer Grade-I in the year 2002. The petitioner in W.P.(MD) No.14374 of 2013, was appointed as Junior Assistant in the year 1986 and promoted as Head Clerk on 21.05.1997 and further promoted as Executive Officer Grade-I on 23.06.1999. The petitioner was further promoted as Executive Officer Selection Grade on 13.08.2003.

5.2.It is stated by the petitioners that the candidates, who having put in two years of service, as Executive Officer Grade-I, and who fulfills such requirements, are eligible to be considered for promotion to the post of Executive Officer (Selection Grade).

<https://hcservices.courts.gov.in/hcservices/> The relevance of the petitioners that their names were



figuring in the seniority list without reference to their promotion and the post, in which they were holding, as on the date of filing of these Writ Petitions.

5.3.It is the case of the petitioner in W.P.(MD)No.14373 of 2013 that his name was found in the seniority list of Executive Officer (Grade-II) for the year 2011-12, as Serial No.84, whereas, the name of the petitioner in W.P.(MD)No.14374 of 2013 was found in the seniority list of Executive Officer (Grade-I) for the year 2011-12, as Serial No.4 for the year 2011-12. It is admitted by the petitioners that the State was considered as Unit for fixing the seniority in the post of Executive Officer Special Grade and Selection Grade. Earlier, the District was considered to be the Unit for fixing the seniority in the post of Executive Officer (Grade-I) and Executive Officer (Grade-II).

5.4.It is admitted that this anomaly was removed pursuant to the order passed by the Tamil Nadu State Administrative Tribunal in O.A.No.2526 of 1993 etc., batch. It is admitted that Special Leave Petition filed before the Honourable Supreme Court, as against the order of State Administrative Tribunal, was also dismissed. It is now admitted that as per G.O.Ms.No.62, dated 18.04.2009, an amendment to the relevant rule was introduced and that as per the amended rule, the State should be considered as Unit for all the four categories of Executive Officers in the Tamil Nadu Town Panchayat Subordinate Service. By virtue of subsequent amendment, the post, in which the petitioners were appointed as well as the feeder post, which was held by petitioner before getting promotion to the post of Executive Officer (Grade-II) were also redefined and the State was considered to be the Unit for the purpose of fixing seniority for all the posts, like, Head Clerk, Assistant etc. Therefore, the seniority of anyone will be determined with reference to the date, on which, he was originally appointed as Junior Assistant or Head Clerk. The amendment of service rules was held nececciated, because of the direction of the Tamil Nadu State Administrative Tribunal, which was also confirmed by the Honourable Supreme Court, later. The grievance of the petitioners is that by virtue of the amendments, the petitioners, who were holding the post of Executive Officer (Selection Grade) and Executive Officer (Special Grade), respectively, are likely to be reverted. Hence, they are before this Court.

6.None of the submissions of the learned Counsel for the petitioners are appropriate, as the petitioners, pursuant to the Government Orders, have not been reverted, as the Government Order vide G.O.Ms.No.62, dated 18.04.2009, and the subsequent Government Orders, give unconditional protection to the existing incumbents. It was by virtue of the specific direction to protect the service condition of the petitioners and others, the petitioners were not disturbed from the post of Executive Officer (Selection Grade) and Executive Officer (Special Grade), respectively, even though their



names are found only in the panel prepared for the year 2011-12 for the post of Executive Officer (Grade-I) and Executive Officer (Grade-II), respectively.

7. These Writ Petitions have been filed, as if the petitioners' vested right are sought to be divested by virtue of impugned orders. Absolutely, there is no basis for such an argument. When the seniority of all categories are likely to be fixed with reference to the date of entry into service, this Court is unable to visualise a situation or position whereby, the petitioners' seniority will be totally lost and that several persons, who are juniors to the petitioners, will get accelerated promotion. Such a situation was never contemplated and the amendment was subject to preserving one's position. Since the petitioners' right is protected, this Court find no merits in these Writ Petitions and hence, these Writ Petitions are dismissed as devoid of any merits. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar (CS)

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To

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
St. Fort George, Chennai - 600 009.

2. The Director of Town Panchayat,
Kuralagam 4th Floor, Chennai - 600 108.

+1cc to M/s.SPL.GOV'T PLEADER, SR.No.33522 DATED:02.11.2021.

Order made in
W.P. (MD) Nos.14373 and 14374 of 2013
01.11.2021

PS (CO)
GC/NS (22.11.2021) 4P 4C