



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.8070 of 2021

and W.M.P. (MD)No.6170 of 2021

WEB COPY

M.Amirthalingam

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. By its Chief Secretary,
St. George Fort, Chennai.

2.The Public Secretary,
Public Department,
Government of Tamil nadu,
St. George Fort, Chennai.

3.The Additional Chief Secretary,
Revenue Department,
Government of Tamil Nadu,
St. George Fort, Chennai.

4.The Additional Chief Secretary/
The Commissioner of Revenue Administration,
Ezhilagam, Chennai - 600 005.

5.The District Collector,
Sivagangai District.

6.P.Tinakumar

7.C.Suresh

8.M.Ganeshkumar

9.S.Geethapriya

10.K.V.Rajkumar

11.G.R.Divyashri

12.R.Ananthi

13.L.Mythili

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to restore the seniority of the petitioner by placing the petitioner in panel year 2009 for the post of Tahsildar under Serial No.5 and correspondingly revise the seniority in the post of Deputy Collector



in compliance of the judgment dated 12.03.2019 passed in Civil Appeal Nos.257-258/2015 by the Hon'ble Supreme Court of India and the consequent circular No.1/2019 dated 29.06.2019 and include the petitioner's name in the panel year 2020 for District Revenue Officer.

WEB COPY

For Petitioner : Mr.G.Prabhu Rajaduri
For Respondents : Mr.K.S.Selvaganesan
Government Advocate for R1 to R5.

ORDER

The petitioner has come out with the present Writ Petition for a direction to the respondents to restore the seniority of the petitioner by placing the petitioner in the Panel of the year 2009 for the post of Tahsildar under Serial No.5 and correspondingly revise the seniority in the post of Deputy Collector in compliance of the judgment dated 12.03.2019, passed in Civil Appeal Nos.257-258/2015, by the Hon'ble Apex Court and the consequent Circular No.1/2019, dated 29.06.2019 and include the petitioner's name in the Panel of the year 2020 for District Revenue Officer.

2. The petitioner was directly appointed as Pro- Assistant in the year 2000. In the combined seniority list of Assistants, both Pro-Assistants and Promotee Assistants were included on the basis of their appointment. By G.O.Ms.No.133, Revenue Department, dated 07.02.1995, the Government gave preference to the Pro Assistants. Some of the Promotee Assistants, challenged the said G.O.Ms.No.133, Revenue Department, dated 07.02.1995, before the Administrative Tribunal. The Tribunal, by the order dated 28.02.1997, quashed the said Government Order. The Government filed W.P.Nos.27173 and 27174 of 2003, challenging the order of the Tribunal. This Court, by order dated 10.09.2005, set aside the order of Tribunal and upheld the Government Order giving preference to the Pro-Assistants in the matter of seniority. Following the order of this Court, the petitioner was promoted as Deputy Tahsildar in the year 2006, in accordance with the seniority fixed in the post of Assistant from the year 2000. Some of the Promotee Assistants challenged the order of this Court before the Hon'ble Apex Court in Civil Appeal Nos.2251 and 2252 of 2009 and the Hon'ble Apex Court, by order dated 08.04.2009, partly allowed the Appeals holding that the said G.O.Ms.No.133, Revenue Department, dated 07.02.1995, giving preference to the Pro-Assistants would be applicable to the Promotee Assistants, who are graduates.

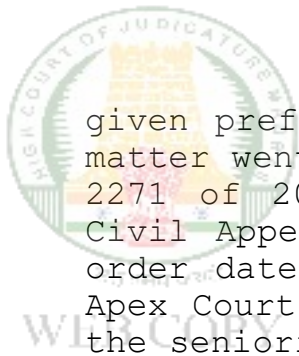
3. Following the judgment of the Hon'ble Apex Court, the seniority of the Deputy Tahsildar was revised and the petitioner's seniority was reduced. The petitioner was promoted as Tashildar only in the year 2010 and as Deputy Collector on 28.07.2015.



4. Some Writ Petitions were filed with regard to the preparation of Panel for Deputy Tahsildar and the said Writ Petitions culminated in W.A.(MD)No.1286 of 2011 and a Review Appl.(MD)No.37 of 2012, wherein this Court directed to prepare the seniority of Deputy Tahsildar as on 04.12.1978. Aggrieved over the same, the petitioner and other Pro-Assistants filed Civil Appeal Nos.257 and 258 of 2015. The Hon'ble Apex Court, vide judgment dated 12.03.2019, disposed of the said appeals holding that the earlier judgment dated 08.04.2009 would operate only prospectively and would not affect the persons, who were promoted as Deputy Tahsildar prior to 08.04.2009 and that their seniority should not be disturbed. The fourth respondent in view of the judgment of the Hon'ble Apex Court dated 12.03.2019, issued a Circular dated 26.09.2019, instructing all the District Collectors, including the fifth respondent to implement the judgment of the Hon'ble Apex Court in letter and spirit. Specific instructions are given that the promotion of directly recruited Assistants, like the petitioner, effected between 07.02.1995 and 08.04.2009 with their seniority in the respective position should not be disturbed. Earlier when the Panel for the post of Tahsildar in Sivagangai District was prepared, the petitioner's name was found place in Serial No.5. In view of the judgment of the Hon'ble Apex Court dated 08.04.2009, the rank of the petitioner was reduced and serial Nos.5 and 6 were kept as blank and only four persons were promoted. As per the order of the Hon'ble Apex Court and Circular dated 26.09.2019, the seniority of the petitioner has to be revised and restored. Now, the respondents are taking steps for preparing panel for promotion to the post of District Revenue Officers. According to the petitioner, the respondents 6 to 13 are juniors to him and their proformas were called for by the fourth respondent. If seniority is restored as per the judgment of the Hon'ble Apex Court dated 12.03.2019, the petitioner will be senior to the respondents 6 to 13. In the said circumstances, the petitioner has given a representation on 29.07.2019, to the fourth respondent, seeking to revise the seniority by implementing the order of Hon'ble Apex Court dated 12.03.2019. Since no orders have been passed, the petitioner has come out with the present Writ Petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 5.

6. From the materials placed on record, it is seen that, G.O.Ms.No.133, Revenue Department, dated 07.02.1995, has given preference to Pro-Assistants in the seniority list of Assistants over and above the Promotee Assistants. In the OA filed by Promotee Assistants, challenging Government Order which was taken up to Hon'ble Apex Court. In the Civil Appeals, filed by the Promotee Assistants, challenging the Government Order, the Hon'ble Apex Court, by order dated 08.04.2009, partly allowed the Appeals, holding that the Promotee Assistants, who are graduates also will be



given preference. Again, Writ Petitions were filed and again, the matter went up to the Hon'ble Apex Court in S.L.P. (C) Nos.2270 and 2271 of 2012 and the said Special Leave Petitions were heard as Civil Appeal Nos.257 and 258 of 2015. The Hon'ble Apex Court, by order dated 12.03.2019, held that the earlier order of the Hon'ble Apex Court, dated 08.04.2009, will have only prospective effect and the seniority of the Pro-Assistants appointed between 07.02.1995 and 08.04.2009 shall not be disturbed. The fourth respondent also issued a Circular dated 26.09.2019 to all the District Collectors, including the fifth respondent to implement the judgment of the Hon'ble Apex Court in letter and spirit. The petitioner, in his representation dated 29.07.2019, is seeking to implement the order of the Hon'ble Apex Court dated 12.03.2019 in fixing his seniority. In view of the order of the Hon'ble Apex Court, the fourth respondent is bound to consider the representation of the petitioner and pass orders taking into consideration the order of the Hon'ble Apex Court dated 12.03.2019.

7. This Court directs the fourth respondent to consider the representation of the petitioner dated 29.07.2019, taking into consideration the judgment of the Hon'ble Apex Court dated 12.03.20219, and pass orders within a period of four weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

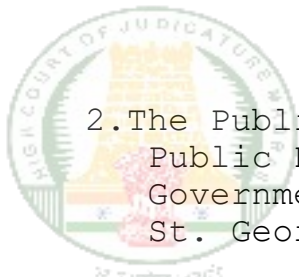
Sub Assistant Registrar(CS)

vsm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Chief Secretary,
State of Tamil Nadu,
St. George Fort, Chennai.



2.The Public Secretary,
Public Department,
Government of Tamil nadu,
St. George Fort, Chennai.

3.The Additional Chief Secretary,
Revenue Department,
Government of Tamil Nadu,
St. George Fort, Chennai.

4.The Additional Chief Secretary/
The Commissioner of Revenue Administration,
Ezhilagam, Chennai - 600 005.

5.The District Collector,
Sivagangai District.

+1 CC to M/s.G.PRABHURAJADURAI, Advocate (SR-20806[F] dated
01/07/2021)

+1 CC to M/s.SPL GP (SR-20884[F] dated 01/07/2021)

W.P (MD) No.8070 of 2021
and W.M.P. (MD) No.6170 of 2021
30.06.2021

DKS (CO)
KB (09.07.2021) 5P 8C