



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2021

CORAM:

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND**

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P. (MD)No.9034 of 2018

and

WMP(MD)No.22962 of 2019

(Through Video Conferencing)

P.Damodara Pandiyan

: Petitioner

Vs.

1.The Principal District & Sessions Judge,
Combined District Courts Campus,
Madurai - 625 020

2.C.Sumithra

3.M.Annakili

4.S.Rajeswari

5.G.Senthil Kumar

: Respondents

(R2 to R5 have been impleaded
as per the order made in
WMP (MD) No.14037/2019 in
WP(MD)No.9034 of 2018
dated 13.08.2019)

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondent to upgrade and fix the original seniority of the petitioner on par with his colleagues and juniors ie., between P.Sethuraman and M.Annakili and render all the promotional and monetary benefits including the back wages, applicable to the revised seniority, to the petitioner within a stipulated time.

For Petitioner : Mr.N.Karthik Kanna

For Respondents : Mr.R.Aravindan for R1
No appearance for R2 to R5



ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

Heard the learned counsel for the petitioner and the learned counsel for the respondent No.1. Despite notice served and name printed, none appears for the respondents 2 to 5.

2. The petitioner herein made an application on 10.08.2011 seeking appointment on compassionate ground, after the death of his father, who was working as Grade III Bench Clerk, on 05.06.2011. He was temporarily appointed as Junior Assistant subject to the concurrence of the Tamil Nadu Public Service Commission.

3. As regularization was awarded, despite completion of probation, he was not made permanent. After the service was regularized, he was promoted as Assistant in I Additional Sessions Court for NDPS cases as per proceedings in A.No.186/2-J/2017 dated 21.09.2017. He made a request to refix the seniority based upon his original seniority in the feeder category. As it was not considered, the present writ petition has been filed.

4. The learned counsel for the petitioner, placing reliance upon the order of the Division Bench in W.P.(MD) No.16985/2017 dated 21.03.2018, submitted that his seniority will have to be fixed in tune with the existing seniority in the feeder category.

5. The learned counsel for the respondent No.1 submitted that inasmuch as his promotion was delayed for want of regularization and others having reached the next category, his request is not feasible for consideration.

6. We have heard the learned counsel for the petitioner and the learned counsel for the respondent No.1. As stated, there is no appearance on behalf of the private respondents.

7. It is not in dispute that but for his regularization, which got delayed, due to administrative reasons, the petitioner would have become senior to others, who are appointed subsequently to his appointment. There is no question of temporary compassionate appointment in a substantive vacancy. Once regularization is made, it relates back to the initial appointment. Therefore, it is nothing but a fact his original seniority will have restored, especially when it is nobody's case that for other reasons, he was placed below his immediate juniors in the feeder category. Even those persons are not contesting the case before us.

8. In such view of the matter, the respondent No.1 is directed to re-do the exercise and fix the petitioner's seniority above his immediate juniors in the promoted category. Needful will have to be



done within eight weeks from the date of receipt of a copy of this order.

9. The writ petition stands disposed of accordingly. No costs. Consequently connected M.P. is closed.

WEB COPY

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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

The Principal District & Sessions Judge,
Combined District Courts Campus,
Madurai - 625 020

Copy to

The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.

**Order made in
W.P. (MD)No.9034 of 2018
Dated: 01.03.2021**

KM (15.03.2021) 3P 3C