IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-10-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.10199 of 2016

C.Venkatesan .. Petitioner

vs.

1.The Principal Secretary Commissioner of
Commercial Taxes,
Government of Tamil Nadu,
Ezhilagam,
Chepauk,
Chennai-5.

2.The Joint Commissioner of Commercial Taxes,
Salem Division,
II Agraharam,
Salem-636 001. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the impugned orders in Proc.No.P2/1380/2015-I and Proc.No.P2/1380/2015-II dated 20.08.2015 on the file of the first respondent and quash the same.

For Petitioner : Mr.P.Ganesan

For Respondents : Ms.K.Vasantha Mala,
Government Advocate.

ORDER

The approved list dated 20.08.2015 published for appointment to the post of Deputy Commercial Tax Officer, is under challenge in the present writ petition.

2. The petitioner states that he joined as Junior Assistant on 10.08.2001 in the Commercial Tax Department. His services were regularised with effect from 10.08.2001. He was working as System Assistant in the cadre of Assistant from 20.08.2007 onwards. His next avenue for promotion is Deputy Commercial Tax Officer and the petitioner was transferred to the Office of the Deputy Commissioner, Salem by way of mutual transfer. The order of transfer was issued in proceedings dated 12.01.2010.

3. The mutual transfer was effected between the petitioner and one Smt.K.R.Usha and accordingly, the petitioner joined at Salem. The seniority of the petitioner was fixed in accordance with the Rule 20(b)(i) of

the Tamil Nadu Ministerial Service Rules.

4. The grievance of the writ petitioner is that the year 2006 is to be taken into consideration for the purpose of reckoning the seniority of the writ petitioner in the cadre of Assistant. If at all the said year of 2006 is taken into consideration, the name of the petitioner would have been included in the approved list for appointment to the post of Deputy Commercial Tax Officer in an appropriate place. However, the respondents have not considered the said seniority and the juniors to the petitioner were promoted to the post of Deputy Commercial Tax Officer.

5. The learned Government Advocate, appearing on behalf of the respondents, objected the said contentions raised on behalf of the learned counsel for the petitioner by stating that the petitioner was working as System Assistant/Assistant on promotion from 20.08.2007 and his seniority has been fixed as on 15.03.2007 in accordance with the Rule 20(b)(i) of the Tamil Nadu Ministerial Service Rules. Accordingly, the seniority of the petitioner was taken into consideration for the purpose of inclusion of his name in the

approved list for promotion to the post of Deputy Commercial Tax Officer.

6. Even as per the petitioner and he has stated in his affidavit that he was working as System Assistant on promotion from 20.08.2007 in the cadre of Assistant in the Office of the Assistant Commissioner, Valluvarkottam Assessment Circle on mutual transfer.

7. The learned counsel for the petitioner mainly contended that the Rule applicable for fixation of seniority while effecting the mutual transfers were not followed in the case of the petitioner. In the event of applying the Rule 20(b)(i) of the Tamil Nadu Ministerial Service Rules, the petitioner would be getting the seniority from the year 2006 onwards and accordingly his name ought to have been included for promotion to the post of Deputy Commercial Tax Officer.

8. Since the facts are disputed, the respondents are directed to verify the Service Records of the writ petitioner with reference to the mutual transfer in respect of Rule 20(b)(i) of the Tamil Nadu Ministerial Service

Rules and ascertain the correctness of the seniority fixed for the petitioner in the cadre of Assistant and thereafter, if necessary, initiate all further actions as expeditiously as possible.

9. With the abovesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs.

14-10-2022

Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
Svn

To

1.The Principal Secretary Commissioner of
Commercial Taxes,
Government of Tamil Nadu,
Ezhilagam,
Chepauk,
Chennai-5.

S.M.SUBRAMANIAM, J.

Svn

2.The Joint Commissioner of Commercial Taxes,
Salem Division,
II Agraharam,
Salem-636 001.

WP 10199 of 2016

14-10-2022