

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NO.13230 OF 2015

AND

WMP.NO.33334 OF 2016

M.Shajahan

... Petitioner

Vs.

1. The Chief Secretary to Government
Government of Tamil Nadu
Secretariat, Chennai - 600 009.
2. The Principal Secretary to Government
Personnel and Administrative Reforms
Department, Secretariat, Chennai-600 009.
3. The Principal Secretary to Government
Finance Department, Secretariat,
Chennai - 600 009.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to grant the petitioner parity in promotion with his junior with seniority number 104, as against my 85, who is promoted as Joint Secretary in Finance Department and consequently, promote the petitioner as Joint Secretary to Government with effect from 10.12.2012 with all attendant benefits.

For Petitioner : Mr.S.Namasivayam

For Respondent : Ms. S.Anitha,
Nos.1 to 3 Special Government Pleader

O R D E R

The relief sought for in the present writ petition is to direct the respondents to grant the petitioner parity in promotion with his junior with seniority number 104, as against my 85, who is promoted as Joint Secretary in Finance Department and consequently, promote the petitioner as Joint Secretary to Government with effect from 10.12.2012 with all attendant benefits.

2. With reference to the grievance of the petitioner for promotion/upgradation of pay as the case may be and for consequential monetary benefits on par with her juniors, learned Special Government Pleader appearing for respondents submitted that the representation submitted by the petitioner is under consideration by the Government.

3. The respondents filed a detailed counter setting out the facts relating to the case. In paragraph No.12 of the counter, it is stated as follows:

"12.. . . the upgradation /stepping up of pay cannot be given to the petitioner, whenever his junior (Thiru K.Swaminathan) in Finance Unit (who have got promotion as Joint Secretary to Government on 09.11.2012 vide G.O.(Rt.) No.853, Finance Department, dated 9.11.2012) after the date of issue of the G.O.(Ms).No.154, Personnel and Administrative Reforms (U.Special) Department, dated 30.10.2009. It is submitted that no one is entitled for automatic upgradation/stepping up of pay in One Unit, whenever his/her junior in Finance Unit, got promotion, after issuing and fixing a cut-off date for getting the benefits of the G.O.(Ms).No.154, Personnel and Administrative Reforms (U.Special) Department, dated 30.10.2009. Further, the Government have taken a decision and issued orders in G.O.(Ms).No.126 Personnel and Administrative Reforms (U.Special) Department, dated 29.05.1998, G.O.(Ms).No.171, Personnel and Administrative Reforms (U.Special) Department, dated 28.09.2006 and in G.O.(Ms).No.154 Personnel and Administrative Reforms (U.Special) Department, dated 30.10.2009 by relaxing the condition "one time affair" as ordered in G.O.(Ms).No.126, Personnel and Administrative

Reforms (U.Special) Department, dated 29.05.1998. Hence, it is not discrimination and not violative of Article 14 of the Constitution of India. It is also submitted that the representation of the petitioner dated 26.11.2014 is under consideration of the Government along with the similar requests received from the similarly placed persons."

4. In view of the fact that the representation submitted by the petitioner to grant benefits on par with his juniors is under consideration, it is suffice if a direction is issued to the respondents to consider the issue and take a decision in accordance with law. In view of the counter filed, the respondents 2 & 3 are directed to consider the claim of the writ petitioner with reference to his representation and take a decision and pass appropriate orders on merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order. The petitioner is directed to submit a copy of the representation enclosing the documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sms/sli

To

1. The Chief Secretary to Government
Government of Tamil Nadu
Secretariat, Chennai - 600 009.
2. The Principal Secretary to Government
Personnel and Administrative Reforms
Department, Secretariat, Chennai-600 009.

3. The Principal Secretary to Government
Finance Department, Secretariat,
Chennai - 600 009.

+1cc to the Government Pleader, S.R.No.35900

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KV(CO)
PM/11/07/2022