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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.NO.13115 OF 2010

B.Ekambaram

... Petitioner

.Vs.

1. The District Collector,
Tiruvallur District,
Tiruvallur.

2. P.Selvaraj
3. R.Raman
4. K.Nagendran
5. B.Indiragandhi
6. G.Prabhavathi
7. V.Kannadasan
8. N.Kotteeswaran
9. K.Karunanidhi
10. V.Logadasan
11. M.Thirugnanasambandam

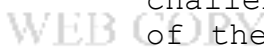
... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records relating to the proceedings in RoC.No.10167/2010/PA-3 dated 18.03.2010 and RoC.No.10163/ 2010/PA-2 dated 29.03.2010 on the file of the first respondent herein and quash the same in so far as the same relates to the petitioner herein and consequently direct the first respondent herein to forthwith re-fix the seniority of the petitioner herein in accordance with the Rules over and above the respondents 2 and 6 to 11 herein in the post of Junior Assistant and then in the post of Assistant over and above the respondents 2 to 11 herein.

For the Petitioner : Mr.V.R.Rajasekaran

For the Respondents : Mrs.E.Renganayaki
Additional Government Pleader
For R1

No Appearance for R2 to 11





5. I have heard Mr.V.R.Rajasekaran, learned counsel for the petitioner and Mrs.E.Renganayaki, learned Additional Government Pleader and perused the materials on record.

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6. At the outset, I find that various reasons given in detail by the respondents in their counter affidavit in respect of respondents 6 to 11 as to their erstwhile service particulars in respect to the post of Junior Assistant is not relevant to the instant case. As per Rule 35(a) of the Tamil Nadu State and Subordinate Service Rules, seniority has to be fixed by the appointing authority. Admittedly, the above dates of promotion of the petitioner and the respondents 6 to 11 are correct. The dates of promotion of the respondents 6 to 11 are not prior to the date of promotion of the petitioner and their dates of promotion remains subsequent to that of the petitioner. Therefore, for any reason what so ever that had happened during the service as Junior Assistant, the same cannot be undone in the seniority list in respect of the post of Assistant. So long as their date of promotion as Assistant remains unaltered, they cannot become seniors to the petitioner in the post of Assistant. Therefore, this writ petition deserves to be allowed.

7. Accordingly, this writ petition is allowed on the following terms:

(i) The impugned orders 18.03.2010 and 29.03.2010 are quashed inasmuch as fixing the respondents 6 to 11 above the petitioner and consequently, the respondents are directed to re-fix the seniority list by placing the petitioner above the respondents 6 to 11 in the post of Assistant.

(ii) The petitioner would be entitled to all consequential benefits, if any, arises out of such re-fixation of seniority and if he is entitled to any benefit of promotion, the same shall be notionally granted and accordingly, his retiral benefits and pension would be re-fixed. The petitioner, however, would not be entitled to the arrears of difference in salary, but would be entitled to the arrears of retiral benefits and pension alone, if he is given any notional promotion. The petitioner will not be entitled to any interest on the arrears.



(iii) The above exercise shall be carried out within a period of two months from the date of receipt of copy of this order.

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8. There will be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

drm

To

The District Collector,
Tiruvallur District,
Tiruvallur.

+1cc to Mr.V.R.Rajasekaran, Advocate, S.R.No.25245
+1cc to the Government Pleader, S.R.No.26147

W.P.NO.13115 OF 2010

KK(CO)
PBS/02/05/2022