IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.23145 of 2010

A.Nalla Perumal .. Petitioner

Versus

1.The Principal Secretary/Commissioner of
Treasuries and Accounts,
Chennai - 600 015.

2.The Treasury Officer,
Cuddalore.

3.The Treasury Officer,
Villupuram. .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other appropriate writ direction or order in the nature of a Writ calling for the records relating to the orders in (i) Pro.Na.Ka.Na.505/2006/E1, dated 27.06.2008 of the second respondent; (ii) Pro.Na.Ka.No.59256/2005/C3, dated 29.07.2009 of the first respondent and (iii) Pro.R.C.No.8474/09/N1, dated 08.10.2009 of the first respondent and quash the same and to issue consequential directions to the first respondent to fix the seniority of the petitioner in the panel of Accountants for year 1986 for Cuddalore District, below his immediate Senior Thiru M.Ganapathy and to grant all consequential service and monetary benefits.

For Petitioner : Mr.M.Ravi

For RR1 to 3 : Mrs.E.Ranganayaki
Additional Government Pleader

JUDGMENT

The petitioner has filed this Writ Petition challenging the order of the second respondent, dated 27.06.2008 and the further orders of the first respondent, dated 29.07.2009 and 08.10.2009, whereby, the respondents have refixed the Seniority granted to the petitioner in the post of Accountant with effect from 23.04.1993, while originally, by an order, dated 15.07.1999, he was granted seniority with effect from 22.06.1990.

2. The submission of the learned Counsel for the petitioner is that the seniority position was remaining as such for a period of more than ten years, it was refixed by the impugned

orders to the detriment of the petitioner without affording any opportunity whatsoever to the petitioner. Therefore, according to the learned Counsel for the petitioner, the impugned orders are violative of principles of natural justice as they revise the date on which the seniority to be counted to a later date and as it visits the petitioner with consequences of lesser pensionary and retiral benefits.

3. As a matter of fact, the learned Counsel for the petitioner would submit that the original seniority was granted pursuant to a direction given by the Tamil Nadu Administrative Tribunal in O.A.No.7568 of 1998, by considering the position of the petitioner in comparison to his junior to one V.Jayapaul. Therefore, the petitioner was originally granted seniority correctly and it is only by the impugned orders, the respondents have erred by refixing the same.

4. Per contra, Mrs.E.Ranganayaki, learned Additional Government Pleader, relying upon the paragraph No.3 of the counter affidavit, would submit that the earlier orders of the Tamil Nadu Administrative Tribunal are not applicable to the petitioner and since the petitioner was promoted directly to the post of Accountant from Cashier without conversion as Junior Assistant and therefore, without any issue, whatsoever, the Tribunal had granted the direction in the instant case. Further, she would submit that the order of the Tribunal was only to consider his representation and pursuant to the order of the Tribunal, it is the respondents who have committed an error in granting the benefit to the petitioner. Once the mistake surfaced and came to the notice of the authorities, immediately without lapse of time, the same was rectified by the order of the second respondent dated 27.06.2008. Therefore, she would submit that the law should lean in favour of the correction of mistake and submits that the impugned orders are in order.

5. I have considered the rival submissions made on behalf of both the sides. It is seen that the petitioner was at the age of 57 years, when the Writ Petition was filed and pending the writ petition he has retired from service upon superannuation. But, however, the learned Counsel would submit that but for the impugned orders, the petitioner is entitled to better retirement benefits. Upon considering the impugned orders, it is clear that they are the orders adverse to the petitioner and passed without issue of any show-cause notice whatsoever and therefore, impugned orders are bad in law for violation of principles of natural justice.

6. Therefore, even though there is considerable efflux of time, considering the merits of the case pleaded by both sides, an oppurtunity is also to be granted to the respondent to take a considered decision after hearing the petitioner.

7. Therefore, this Writ Petition is allowed on following terms:-

(i) The impugned orders i.e., the order of the first respondent, dated 27.06.2008 and the further orders of the first respondent, dated 29.07.2009 and 08.10.2009 stand quashed;

(ii) However, the first respondent would be at liberty to issue a fresh show-cause notice and decide the matter afresh after affording an opportunity to the petitioner, if he chooses to do so;

(iii) In the event of the first respondent not proceeding afresh or deciding in favour of the petitioner in event of proceeding afresh, the petitioner would be entitled to all the consequential benefits.

(iv) However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

grs

To

1. The Principal Secretary/Commissioner of
Treasuries and Accounts, Chennai - 600 015.

2. The Treasury Officer, Cuddalore.

3. The Treasury Officer, Villupuram.

4. The Public Prosecutor,
High Court of Madras.

+1cc to Government Pleader SR. No.13374

W.P.No.23145 of 2010

GJ (CO)
PR (09/03/2022)