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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.8973 of 2011

K.Panchabakesan

...Petitioner

-Vs-

1. The Secretary to Government,  
Commercial Taxes and Registration Department,  
Secretariat, Chennai.

2. The Inspector General of Registration,  
Santhome, Chennai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1<sup>st</sup> respondent in connection with the impugned order passed by him in Letter No.13339/K/2010-5, dated 21.02.2011, quash the same and further direct the respondents to promote the petitioner as Sub-Registrar Grade-II and grant him all consequential service and monetary benefits.

For Petitioner : Mr.S.Sivakumar

For Respondents: Mr.T.Chezhiyan,  
Additional Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner herein was temporarily appointed as Junior Assistant in Thanjavur District Revenue Unit with effect from 19.10.1981, through employment exchange. His services came to be regularized with effect from 25.06.1984 and his probation was declared on 24.06.1986 by the District Collector, Thanjavur District, through his proceedings dated 24.11.1987. By quoting that there were shortage of vacancies, his services were



redeployed to the Health Department with effect from 23.12.1987 and on the same ground, he was once again redeployed to the Registration Department on 13.06.1988, with effect from 21.09.1988.

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3. By placing reliance on the Tamil Nadu Special Absorption Rules, 1987, the petitioner made a representation on 13.08.1993 for fixation of his seniority. The second respondent, in his proceedings dated 02.07.1996, had stated that the petitioner would be eligible for fixation of seniority on the basis of his temporary entry into service in the Revenue Department on 19.10.1981, but would be entitled only with effect from 25.06.1984 onwards, based on his regularization in the Revenue Department. However, while fixing the seniority in the Registration Department, the respondent had taken his date of appointment in the Registration Department into account, for which purpose, they relied upon General Rule 35(f) of the Tamil Nadu State and Subordinate Service Rules. Aggrieved against the same, the present writ petition has been filed.

4. The Tamil Nadu Special Absorption Rules, 1987 is a special rule applicable to the candidates appointed through Special Absorption in the year 1984 for the posts of Junior Assistants, Typists and Steno-Typists in the Tamil Nadu Ministerial Services and Tamil Nadu Judicial Ministerial Services and Typists and Steno-Typists in the Tamil Nadu Secretariat Services appointed through Employment Exchange and who were in service as on 25.06.1984.

5. Admittedly, the petitioner herein was appointed through Special Absorption in the Thanjavur District Revenue Unit with effect from 19.10.1981 and his services came to be regularized on 25.06.1984 and as such, he was in service as on 25.06.1984 and therefore, his service regularization would be governed under the Tamil Nadu Special Absorption Rules, 1987.

6. Rule 10 of the Special Absorption Rules provides that, the seniority of a candidate appointed through Special Absorption shall be fixed with reference to the date of first temporary appointment in the departmental unit in which he has been absorbed irrespective of whether he has been subsequently discharged for want of vacancies and not with reference to the date of first appointment in any other departmental unit.

7. The proviso to Rule 10 states that, when a Junior Assistant is appointed in accordance with the Special Absorption Rules, 1987 and whose services were regularized in one department on 25.06.1984 and reallocated to a new department for want of vacancy through Tamil Nadu Public Service Commission, his seniority shall be fixed by taking into account the date of



his temporary appointment in the department from which he was reallotted.

8. Rule 3 of the Special Rules provides that, if any of the provisions of these rules are repugnant to the corresponding provisions of the General Rules, the candidates appointed through Special Absorption in 1984 will be governed by this Special Rules. While that being so, the stand taken by the first respondent that the revision of his seniority cannot be considered, in view of General Rule 35(f) of the Tamil Nadu State and Subordinate Service Rules, cannot be sustained, since the said rules will not be applicable to the petitioner, who is governed by the Special Rules.

9. As stated earlier, the petitioner would be entitled for fixation of his seniority under Rule 10 of the Special Rules and since he was appointed under the Special Absorption through Employment Exchange on temporary basis with effect from 19.10.1981 in Thanjavur District Revenue Unit, his seniority requires to be fixed, by taking into account his date of initial appointment, i.e. on 19.10.1981 as a crucial date, in view of Rule 10, as well as the proviso to the said rule.

10. In the light of the above findings, the impugned order passed by the first respondent dated 21.02.2011 is quashed. Consequently, there shall be a direction to the first respondent herein to fix the petitioner's seniority, by taking into account his date of initial entry in the Thanjavur District Revenue Unit with effect from 19.10.1981 as a crucial date for such fixation and accordingly, prepare a revised seniority list and the first respondent shall also pass orders, granting all the service and monetary benefits arising out of such fixation of seniority, within a period of 12 weeks from the date of receipt of a copy of this order.

12. The Writ Petition stands allowed, accordingly. No costs.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

hvk



To

1. The Secretary to Government,  
Commercial Taxes and Registration Department,  
Secretariat, Chennai.

2. The Inspector General of Registration,  
Santhome, Chennai.

+lcc to Mr.S.Sivakumar, Advocate, S.R.No.17680  
+lcc to the Government Pleader, S.R.No.18580

W.P.No.8973 of 2011

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