



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.17369 of 2020

and

W.M.P.Nos. 21520 and 21525 of 2020

D.Saikumari

... Petitioner

vs.

1.The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.

2.The Secretary,
G.A Department,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to fix petitioner's seniority above Mr.R.Krishnamoorthy (Retired) and Mrs. Thara Sugirtha who were her Juniors and consequently direct the respondents to promote her to the post of Asst. Secretary Gr.I (Class I), then to Sr. Asst. Secretary, then to Deputy Secretary, then to the Senior Deputy Secretary/Sr.P.O., on par with his juniors with all attendant and consequential benefits.

For Petitioner : Mr.L.Chandrakumar
for N.Naganathan

For Respondents: Mr.Haja Mohideen Gisthi
Standing Counsel

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to fix petitioner's seniority above R.Krishnamoorthy (retired) and Thara Sugirtha, who were her Juniors and consequently, to direct the respondents to promote her to the post of Assistant Secretary Gr.I (Class I), then to Senior Assistant Secretary, then to Deputy Secretary, then to the Senior Deputy Secretary/Sr.P.O., on par



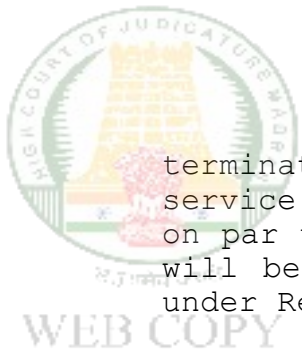
with her juniors with all attendant and consequential benefits.

2. The writ petitioner was appointed as Lower Division Clerk in the Secretary's Department on 08.06.1984 in the vacancy reserved for Scheduled Tribes, based on the community certificate dated 08.08.1983 issued by the Sub-Collector, Saidapet and she was promoted as Junior Assistant on 29.12.1987. Again, she was promoted to the post of Senior Assistant on 08.08.1994. At the relevant point of time, the respondents have forwarded the SLSC's Proceedings dated 14.10.2019 and 14.11.2019 to the District Collector, Kancheepuram to examine the genuineness of the ST Community Certificate produced by the Petitioner at the time of her appointment. On verification, the District Vigilance Committee has passed its order in proceedings in Na.Ka.No.18435/92/J.2 dated 02.05.1997 by cancelling the petitioner's community certificate as 'ST Community Certificate'.

3. Assailing the said order, the petitioner has preferred an appeal before the State Level Scrutiny Committee. While the aforesaid proceedings is pending before the State Level Scrutiny Committee, the petitioner was terminated from service on 22.02.2008 based on the District Level Committee's report. Subsequently, the State Level Scrutiny Community has passed an order confirming the Community Certificate issued by the Sub-Collector, Saidapet dated 08.08.1983 as 'Genuine'. In the meantime, the said termination order has been withdrawn by the respondents in the year 2008. Thereafter, she was promoted notionally to the post of AWO Gr.II with effect from 19.11.2011 and the respondents have placed the petitioner above one A.Xavier. But the claim of the petitioner is that the petitioner ought to have placed above one R.Krishnamoorthy, who was her immediate junior and one ST employee viz., C.Thara Sugirtha, who is six years service junior to the petitioner, was holding the post of Senior Deputy Secretary.

4. It is further stated that not placing the petitioner above one R.Krishnamoorthy, but the petitioner placed above one A.Xavier with effect from 19.11.2011. Therefore, the petitioner made a representation dated 22.01.2020 to the first respondent to consider her seniority and place the petitioner above to her junior R.Krishnamoorthy. The said representation is still pending and no order has been passed. Hence, she filed the present writ petition before this Court.

5. The learned Standing Counsel appearing for the respondents would submit that the genuineness of the community certificate submitted by the petitioner during her appointment was under the verification before the District Level Committee and based on the report of the District Level Committee, the



termination order has been passed and she was removed from service. Therefore, the petitioner now seeking for the promotion on par with her juniors. He further submitted that her seniority will be considered based on the eligibility criteria prescribed under Recruitment Rules.

6. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents and perused the materials available on record.

7. The petitioner was removed from service by the respondents on 22.02.2008 pursuant to the order passed by the District Level Committee and thereafter, the said termination order was cancelled by the respondents in the year 2008. The reason for termination is that the said community certificate is not genuine and subsequently, it was found that the aforesaid community certificate is genuine. In the year 2006 subsequent to the reinstatement in service, the petitioner's seniority has not been taken into consideration for notional promotion. Therefore, she made a representation to the authority seeking for notional promotion from the date of her junior R.Krishnamoorthy was promoted.

8. The aforesaid contention of the petitioner has not been considered by the respondents, without taking into consideration of the period from 2006 till 19.11.2011, her seniority has been fixed above her immediate junior A.Zavier. There is no discussion on the claim of the petitioner by the authority concerned that he is entitled for promotion on par with her junior R.Krishnamoorthy, during the period the petitioner was removed from service and subsequently, rejoined in the duty.

9. Considering the facts and circumstances of the case, this Court directs the respondents to verify the service particulars of the petitioner and to consider the petitioner's representation dated 22.01.2020 seeking notional promotion on par with her junior R.Krishnamoorthy and pass appropriate orders in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

10. With the above observations, the writ petition is disposed of. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Deputy Registrar (CS)

//True copy//

Sub Assistant Registrar



dm

To

WEB COPY

1.The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.

2.The Secretary,
G.A Department,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

+1cc to Mr.N.Naganathan, Advocate SR.No.18047

W.P.No.17369 of 2020

PA(CO)
GMY(12/04/2022)