



W.P.(MD) No.3353 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.3353 of 2020

S.Amirtharaj

... Petitioner

-VS-

1.The Government of Tamil Nadu
Rep. By its Principal Secretary
Personal and Administrative Reforms Department
Fort St. George, Chennai

2.The Tamil Nadu Public Service Commission,
Rep. By its Secretary
3 Frezar Bridge Road, Chennai. 3

3.The Rural Development Department
& Panchayat Raj Department
rep. By its Secretary
Fort St. George, Chennai 9

4.The Director of Rural Development Department &
Panchayat Raj Department, Panagal Building,
Chennai 3

5.The District Collector
Dindigul District.

... Respondents



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Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the Tamil Nadu Public Service Commission the 2nd respondent herein vide its proceedings no.6207/OTD-B2/2010 dated 08.03.2019 and consequential impugned order passed by the District Collector the 5th respondent herein vide its proceedings in Na.Ka.No.7526/2018/oo.va.1 dated 27.03.2019 and quash the same as illegal and consequentially to direct the respondents to re-fixation of seniority list of Assistant based on the marks/ranks scored by the petitioner in the CSSE-1 examinations, 2009-2011 conducted by the Tamil Nadu Public Service Commission and promote the petitioner to the post of Deputy Block Development Officer based on the petitioner's mark/rank.

For Petitioners	:	Mr.R.Rajaraman
For Respondents	:	Mr.S.P.Maharajan for R1, R3 to R5 Special Government Pleader Mr.J.Anandkumar for R2

ORDER

Challenging the impugned order of the 2nd respondent dated 08.03.2019 and the consequential impugned order of the 5th respondent dated 27.03.2019 and for a direction to the respondents to refix the seniority in the cadre of Assistant, the petitioner is before this Court with this writ petition.



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2. The case of the Petitioner is that the petitioner was appointed to the post of Assistant through direct recruitment in the combined subordinate service-I and he joined in the service on 21.01.2013. As per the seniority list published on 14.07.2014, the petitioner's seniority was fixed at Sl.No.14. As per the roster system, the seniority of the petitioner is at Sl.No.34. As per the horizontal and vertical seniority, the seniority list allows the juniors will become seniors to the petitioner and as such there will be a chance of juniors being promoted as Deputy Block Development Officer. While so, the reservation was set aside by this Court in *N.Santhosh Kumar and others* reported in **2015 (4) MLJ 281** and a direction was given to the respondents to fix the seniority afresh. Therefore, for fixing the seniority, the petitioner made representations to the respondents. However, a seniority list was prepared as per Sections 40(1) and 70 of the Tamil Nadu Government Servants (Conditions of Service) Act 2016 (hereinafter referred to as 'the Act'), which was subsequently challenged before this Court as ultra vires and this Court strikes down sections 1(2), 40(1) and Section 70 of the Act and direction was given to redo the seniority as per rank and merit. However, the representation of the petitioner was rejected vide impugned



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5. Heard the learned counsel on both sides and perused the materials available on record.

6. Admittedly the petitioner is selected and appointed as Assistant in the Block Development Officer, Kodaikanal and he joined the service on 21.01.2013 and he completed his probation. In the year 2016, the second respondent forwarded the selection list, in which, the petitioner was placed in Sl.No.14 and subsequently seniority list was prepared following the roster system, wherein, the petitioner was placed at Sl.No.34. Aggrieved by which, the petitioner made representation to the respondents. The 5th respondent prepared the seniority list in accordance with the roster system as per Section 41 and 70 of the Act, which was struck down by this Court. However, the representation made by the petitioner was rejected vide the impugned order. It appears that the issue is pending before the Hon'ble Supreme Court in SLP (C) No.2886/2016 challenging the very same seniority and for implementation of the original seniority and a contempt petition is also pending. Therefore, the petitioner has to necessarily implead himself in the contempt petition, which is pending before the Apex Court.



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However, challenging the very same seniority, filing a writ petition is not sustainable. Accordingly, the writ petition is dismissed. However, liberty is granted to the petitioner to work out his remedy in the manner known to law. No costs.

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Index : Yes/No
Internet : Yes

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M.DHANDAPANI, J.

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