



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.9977 of 2021

and

W.M.P.(MD) Nos.7689, 7690 & 7956 of 2021

K.Esakkimurugeswari

... Petitioner

-vs-

1.The Commissioner of Revenue Administration/
Principal Secretary to the Government,
Government of Tamil Nadu, Revenue Department,
Secretariat, Chennai-600 009.

2.The District Collector,
Thoothukudi District.

3.M.Kannan

4.J.Ahila

5.S.Nagarajan

6.N.Ramakrishan

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records on the files of the 1st respondent pertaining to its order Proc.No.Ser: 3(3)/12752/2016 dated 04.03.2020 insofar as the Turn No.132, and the 2nd respondent pertaining to its order bearing No: ~~916/11/601/30/2020~~ dated 19.05.2021 and to quash the same and consequently direct the respondents 1 and 2 to cancel the promotion granted as Deputy Tahsildar to the respondents 3 to 6 during 2015 and thereafter revise the promotion list prepared by the 2nd respondent during 2015 and thereafter draw the promotion list of Tahsildar including the petitioner's name and to grant all service and monitory benefits with arrears of salary in pursuant to the 1st respondent's order.

For Petitioner : Mr.A.D.Ganesha Moorthi

For RR1 & 2 : Mr.A.K.Manikkam
Special Government Pleader

For RR3 to 6 : Mr.Velkani Raja



O R D E R

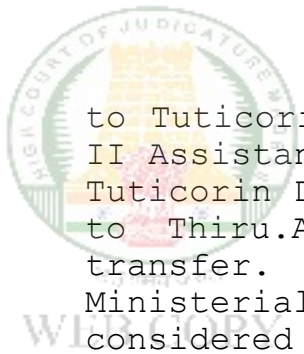
The order dated 04.03.2020 passed by the 1st respondent and the subsequent order dated 19.05.2021 passed by the 2nd respondent are sought to be quashed in the present writ petition. Further direction is sought for to cancel the promotion granted to the Deputy Tahsildar during 2015 and to revise the promotion list prepared by the 2nd respondent.

2. The petitioner states that she was appointed as Assistant by direct recruitment in the Revenue Department and allotted Kanyakumari District by order dated 23.11.2009. The petitioner got transfer by way of mutual to Tuticorin District on 14.07.2012.

3. The petitioner states that the 6th respondent, Mr.N.Ramakrishnan, who had also got mutual transfer much later than the petitioner from Tirunelveli District to Tuticorin District was made as junior to the writ petitioner. The 6th respondent joined as an Assistant in Tirunelveli District along with the same batch during 2009. At the out set, the petitioner contended that the 6th respondent, Ramakrishnan is junior to her in the initial appointment itself to the post of Assistant and the said Ramakrishnan was already promoted as Deputy Tahsildar in the year 2015 and therefore, the petitioner is also entitled for promotion. However, the promotion granted in the year 2015 in favour of the 6th respondent has not been challenged by the writ petitioner so far. The present writ petition is filed after a lapse of 6 years from the date of promotion of the 6th respondent as Deputy Tahsildar by challenging the order passed by the 1st respondent and further challenging the subsequent panel.

4. Question arises whether the petitioner is senior to the 6th respondent, Ramakrishnan or not.

5. The counter filed by the 2nd respondent in W.P.(MD) No.10421 of 2021 reveals that the petitioner was selected by Tamil Nadu Public Service Commission in Group-II Services and originally appointed as Directly Recruited Assistant in Kanyakumari District and joined on 07.01.2010. She joined as Assistant in Tuticorin District through mutual transfer from Kanyakumari District on 16.07.2012. The petitioner opted to come to Tuticorin District by mutual transfer with one Tmt.S.Vijayakumari, Group-II Assistant, who joined in Government service on 05.11.2008 in Tuticorin District. The said Tmt.S.Vijayakumari is senior and the writ petitioner is junior in the mutual transfer. As per Rule 20(A)(1) of the Tamil Nadu Ministerial Special Rules, the seniority of the officials who come in mutual transfer, is considered as the date of joining (07.01.2010) of the junior for the senior and the date of joining after transfer (16.07.2012) is considered for the junior for promotion. As far as the 6th respondent Ramakrishnan is concerned, he was also selected by TNPSC in Group-II District Direct Recruited Assistant in Tirunelveli District on 21.12.2009. He came



to Tuticorin by mutual transfer with one Mr.M.Abdul Samathu, Group-II Assistant, who also joined in Government Service on 24.12.2009 in Tuticorin District. Thus, the 6th respondent, Ramakrishnan is senior to Thiru.Abdul Samathu, who is junior in the mutual District transfer. So applying the very same Rule 20(A)(1) of the Tamil Nadu Ministerial Special Rules, the date of joining of the junior is considered for the senior and date of joining after transfer is considered for the junior for further promotion.

6. In view of the fact that the petitioner opted for mutual transfer and the co-applicant in the mutual transfer application Smt.Vijayakumari happens to be the senior, the petitioner's seniority was fixed as per Rule 20(A)(1) of the Tamil Nadu Ministerial Special Rules and therefore, the petitioner cannot now rely on her original date of appointment at Kanaykumari District and claim seniority over and above the 6th respondent. No doubt, the 6th respondent has also got mutual transfer. In such circumstances, the date of joining of the other co-applicant in the mutual transfer application was considered by the authority with reference to the rules. Therefore, the mutual transfer effected in these cases caused certain alterations in the seniority with reference to their original date of appointment.

7. The learned Special Government Pleader made a submission that even otherwise also, the petitioner is junior to the 6th respondent, as she joined as Assistant on 07.01.2010 and the 6th respondent, Ramakrishnan joined as Assistant on 21.12.2009 and therefore, the petitioner is junior to the 6th respondent. In any angle, irrespective of the date of joining, the mutual transfer opted by the petitioner resulted in alteration of seniority in the post of Assistant and therefore, there is no infirmity as such in respect of the orders impugned passed by the 1st respondent and accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CO)

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/ /2022

Sub Assistant Registrar(CS)

abr
To

1.The Commissioner of Revenue Administration/
Principal Secretary to the Government,
Government of Tamil Nadu, Revenue Department,
Secretariat, Chennai-600 009.



2.The District Collector,
Thoothukudi District.

+1 CC to M/s.A.D. GANESHA MOORTHY, Advocate (SR-18890[F] dated
18/04/2022)

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+1 CC to M/s.SPL.GP. (SR-19166[F] dated 18/04/2022)

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