



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.11561 of 2014

and

M.P. (MD)Nos.1 & 2 of 2014

S.Seeniammal

... Petitioner

vs

1.The Principal Secretary to Government,
Home (Police) Department,
Secretariat,
Chennai - 600 009.

2.The Director General of Police,
Chennai - 600 004.

3.The Superintendent of Police,
Dindigul District,

4.Mr.A.Vellaisamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent in 'Endorsement Rc.No.29482/NGB VI(1)/2011 dated 21.04.2014 and quash the same and consequently direct the respondents to consider the date of petitioner's initial appointment on 21.12.1981 and Departmental Test passed on 18.05.1987 and include the petitioner at the appropriate place in the seniority list of Junior Assistant/Typist for the year 1988-89 and promotion panel ('C' list) fit for promotion to the post of Assistant for the year 1988-89 and consequently, promote the petitioner as Assistant and Superintendent and include the petitioner's name at the appropriate place in the panel of Superintendent fit for appointment by recruitment by transfer to the post Personal Assistant (Admn.) in Police Department for the year 2013-2014 approved in G.O.Ms.No.118 Home (Police V) Department dated 17.02.2014 and promote the petitioner as Personal Assistant (Administration) in the Police Department and grant all the service, monetary and other attended benefits.



WEB COPY

For Petitioner : Mr.A.Thirumurthy
for M/S.Victory Associates

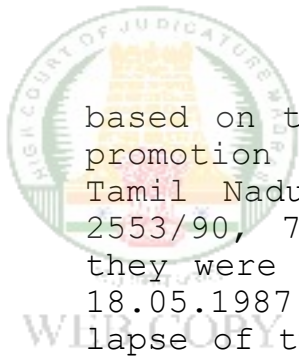
For Respondents : Mr.P.Thilak Kumar for R1 to R3
Government Pleader
Assisted by Mrs.D.Farjana Ghoushia
Special Government Pleader
No appearance for R4

O R D E R

This Writ Petition is filed to quash the impugned order, dated 21.04.2014 and consequently direct the respondents to consider the date of petitioner's initial appointment on 21.12.1981 and the Departmental Test passed on 18.05.1987 and include the petitioner at the appropriate place in the seniority list of for the year 1988-89 and consequently, promote the petitioner's name as Assistant Superintendent and include the petitioner's name in the panel of Superintendent fit for appointment by recruitment by transfer to the post of Personal Assistant (Admn.) in Police Department for the year 2013-14 approved in G.O.Ms.No.118 Home (Police V) Department dated 17.02.2014 and promote the petitioner as Personal Assistant (Administration) in the Police Department.

2. The brief facts of the case are that the petitioner was a physically handicapped person and was temporarily appointed as Typist through District Employment Office under 10(a)(i) basis and joined duty in the Police Department on 21.12.1981. The petitioner's service was regularized from 25.06.1984 as per the G.O.Ms.No.996 P&AR Department, dated 22.09.1984. The petitioner was declared to have successfully completed the probation on 09.07.1986 and she had passed the Departmental Test on 18.05.1987 and she became eligible to be promoted as Assistant as on 18.05.1987.

3.The contention of the petitioner is that as per the G.O.Ms.No.548 P & AR Department, dated 19.06.1987, the Government framed the "Tamil Nadu Special Absorption Rules 1987" governing the service conditions of employees regularized as per G.O.Ms.No.996 P & AR Department, dated 22.09.1984. The said Rule contemplates that "the seniority of a candidate appointed through Special Absorption in 1984 shall be fixed with reference to the date of First Temporary Appointment" in the departmental unit in which he had been absorbed" and as such the petitioner's seniority ought to be fixed as 21.12.1981 which is the date on which the petitioner was temporarily appointed. In the seniority list, the candidates selected by TNPSC ought to be placed first, then the candidates appointed on Compassionate Ground ought to be placed and thereafter, the person appointed under 10(a)(i) ought to be placed at last. When the Promotional Panel of Junior Assistant/Typist fit for promotion to the post of Assistant in 'C' list for the year 1987-88 was prepared



based on the crucial date 15.03.1987 and 198 candidates were given promotion as Assistant on 31.05.1988. Based on the orders of the Tamil Nadu Administrative Tribunal in O.A.No.218/90, 1289/90 and 2553/90, 74 candidates were included in 'C' list for 1987-88 and they were promoted as Assistant. The petitioner is qualified as on 18.05.1987 but her name was not included in the 'C' list. After the lapse of two years, the petitioner's name was included in Sl.No.130 in the promotional panel of 'C' list for the year 1990-91. The petitioner is comparing with one N.Jayalakshmi and A.Vellaisamy. The petitioner was appointed in the temporary appointment under 10 (a)(i) on 21.12.1981 whereas N.Jayalakshmi was transferred from Sericulture Department on 01.12.1984 and A.Vellaisamy was transferred from Revenue Department on 02.03.1983. According to G.O.Ms.No.548 P & AR Department, dated 19.06.1987, the said Vellaisamy ought to have been regularized from the date of joining the Police Department i.e., 02.03.1983, but the respondents have regularized by taking into the date of original appointment in the Revenue Department i.e., 1974. For the said N.Jayalakshmi, the original appointment in the Police Department is 01.12.1984 whereas in Sericulture Department her appointment as 1974. The respondents have taken her original appointment in the Sericulture Department and has conferred the seniority. Aggrieved over the fixation of the seniority, the petitioner has preferred this writ petition.

4.The respondents have filed a counter affidavit stating that one Mr.G.Chandrasekar was appointed in the Revenue Department on 15.05.1974, since he was Burma Repatriate. But the service of the petitioner was regularized with effect from 25.06.1984. Likewise, the said Vellaisamy and the Jayalakshmi were taken the original appointment in the earlier Department. As per the Rule 10, all the candidates were appointed through the Special Absorption in 1984 and the seniority shall be fixed with the reference to the date of First Temporary Appointment in the Departmental Unit. Hence their seniority fixed is in accordance to law.

5.Heard Mr.A.Thirumurthy, learned Counsel appearing for the petitioner and Mr.P.Thilak Kumar, learned Government Pleader appearing for the respondent Nos.1 to 3.

6.In order to resolve this issue, the fixing of seniority under Rule 10 is stated as under:

*"Seniority: "The seniority of a candidate appointed through Special Absorption in 1984, shall be fixed with reference to the date of first temporary appointment **in the departmental unit in which he had been absorbed** irrespective of whether he had been subsequently discharged for want vacancies or appointed again through the Employment Exchange in that Departmental unit and **not with reference to the date of first appointment in any other departmental***



unit where he had acted previously before his absorption in the particular departmental unit. He shall be ranked below the candidates selected by the Tamil Nadu Police Service Commission of the results of the Competitive examination held in November, 1983 irrespective of the date of appointment of these candidates."

While perusing Rule 10, it is clearly stated that **"not with reference to the date of first appointment in any other departmental unit where he had acted previously before his absorption in the particular departmental unit"**, which means the respondents ought to have fixed from the date of absorption in the same Department. The petitioner was appointed in the same Department and absorbed in the same unit whereas the said Jayalakshmi and Vellaisamy were appointed in some other Department and absorbed in Police Department. Therefore, the respondents are terribly wrong in fixing the seniority.

7. Therefore this Court is convinced that the fixing the seniority to the petitioner is not in accordance to G.O.Ms.No.548 P & AR Department, dated 19.06.1987. However, the petitioner is retired from service on 31.10.2015. Therefore, the impugned order is set aside and the respondents are directed to grant the petitioner notional promotion by fixing the seniority in the appropriate place and shall fix the monetary benefits notionally and disburse the same in pensionary benefits. The said exercise shall be completed within a period of six weeks from the date of receipt of the copy of order.

8. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CO)

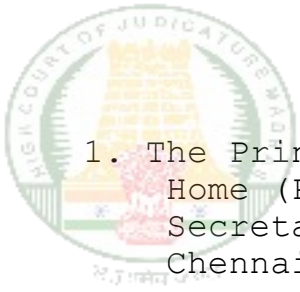
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/ /2022

Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



1. The Principal Secretary to Government,
Home (Police) Department,
Secretariat,
Chennai - 600 009.

2. The Director General of Police,
Chennai - 600 004.

3. The Superintendent of Police,
Dindigul District,

+1 CC to M/s.A.THIRUMURTHY, Advocate (SR-15497[F]
dated 30/03/2022)

+1 CC to M/s.SPL GP (SR-15677 & 16068[F]

Order made in
W.P. (MD) No.11561 of 2014
30.03.2022

SVN(CO)
GC(22.04.2022) 5P 6C