



W.P. No.28814 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.02.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P. No.28814 of 2015
and W.M.P.No.12086 of 2016**

S. Punithavathi

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep by its Chief Secretary to Government
Tamil Nadu Secretariat, Fort St. George
Chennai-600009.

2. The Principal Secretary to Government
Personnel and Administrative Reforms Department
Tamil Nadu Secretariat, Fort St. George
Chennai-600009.

3. S. Karunamoorthy

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent relating to the order in Letter No. 41281/U2/2014-1, P & A.R. (U) Department, dated 01.12.2014, to quash the same and to issue consequential direction to the respondents 1 and 2 to refix the seniority of the petitioner in the post of Junior Assistant and the subsequent promotion posts in



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the Tamil Nadu Secretariat Service right from her initial appointment, in the light of Rule 35(aa) of the General Rules for Tamil Nadu State and Subordinate Service and to grant her notional promotion to the promotion posts upto the level of joint secretary (Non IAS) and to accordingly revise her pay, retirement & pensionary benefits with consequential benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.S.Mythreye Chandru
Special Govt. Pleader for R1 & R2
R3- No Appearance

ORDER

This Writ Petition is filed praying to quash the Letter dated 01.12.2014 issued by the 2nd respondent-Principal Secretary to Government, P&AR Department, whereby the petitioner's request to re-fix her seniority in the post of Junior Assistant for the year 1983 has been rejected.

2. It is averred in the writ petition that the petitioner was appointed as Junior Assistant in the Tamil Nadu Ministerial Service on 17.05.1978 through the Tamil Nadu Public Service Commission. Later, the petitioner by transfer joined as Junior Assistant in the Tamil Nadu Secretariat Service on 15.11.1983.

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After working under various departments, the petitioner retired from service on 30.11.2011 on attaining the age of superannuation.

3. It is further averred that since the seniority of the petitioner has not been fixed as per Rules, she was deprived of promotion to the higher posts on the due dates. The petitioner claims that she would have got promotions as Joint Secretary and Additional Secretary prior to her superannuation on 30.11.2011 if her seniority would have been fixed as per Rules.

4. The learned counsel for the petitioner would submit that in the matter of fixation of seniority, Rule 35(aa) of the General Rules for Tamil Nadu State and Subordinate Services Rules is to be applied. The said Rule stipulates that the seniority of a person in a service is to be determined with reference to the date on which he is appointed to the service. However, the petitioner who was earlier appointed and got transferred from the Tamil Nadu Ministerial Service to the Tamil Nadu Secretariat Service is placed below 16 juniors appointed in the service and thereby, she was not placed in proper seniority in respect of the panel for promotion to the post of Assistant Section Officer as on 01.08.1985.



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Aggrieved by the same, the petitioner made representation dated 28.01.1986, seeking fixation of seniority in accordance with Rules.

5. In the mean while, the petitioner was promoted as Section Officer on 11.01.2005, as Under Secretary on 26.12.2008 and as Deputy Secretary to Government on 30.07.2010 and retired from service on 30.11.2011 on attaining the age of superannuation. Since, her representations has not been replied, the petitioner filed W.P.No.1438 of 2014. This Court by an order dated 24.09.2014, issued direction to the Principal Secretary to the Government, Personnel and Administrative Reforms Department, to consider her representation and pass orders within 8 weeks. However, the Authority has rejected the representation of the petitioner by Letter dated 01.12.2013 and the said Letter is challenged in this Writ Petition.

6. The learned Special Government Pleader appearing for the respondents would submit that as per rule 35(f) of the Tamil Nadu State and Subordinate Services Rules, an application for revision of seniority should have been submitted within a period of three years from the date of fixation of seniority.



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However, the representation of the petitioner dated 28.01.1986 was considered by the Authorities only after the direction of this Court in W.P.No.1438 of 2014 dated 24.09.2014 and by the impugned Letter dated 01.12.2014, the request of the petitioner for refixation of her seniority was rejected. The learned Special Government Pleader would submit that if the petitioner submits her representation afresh setting out her entire case along with a copy of the earlier representation in support of her claim, the same may be directed to be considered by the 2nd respondent within a time frame stipulated by this court.

7. Though the writ petition is filed for larger relief, considering the facts and circumstances of the case and submissions made by learned counsel on both sides, this Court deems it suffice to direct the petitioner to submit a fresh representation furnishing all particulars along with a copy of the earlier representations filed by her with respect to her claim regarding fixation of seniority along with a copy of this order. On receipt of such representation, the 2nd respondent shall consider the same and pass appropriate orders within a period of four weeks from the date of receipt of such representation. The 2nd respondent shall pass appropriate orders on the representation of the petitioner



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with reference to fixation of seniority by taking note of date of claim of the petitioner during the relevant period for the re-fixation of seniority and grant her consequential benefits, subject to her entitlement as per the Rules.

8. The Writ Petition stands disposed of with the above direction. No costs.

Consequently connected miscellaneous petition is closed.

28.02.2023

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

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Tamil Nadu Secretariat, Fort St. George
Chennai-600009.

2. The Principal Secretary of the Government
Personnel and Administrative Reforms Department
Tamil Nadu Secretariat, Fort St. George
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