



W.P.No.19303 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.03.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.19303 of 2016

M.Janakiraman

... Petitioner

Vs.

1. The Government of Tamilnadu
rep. By Principal Secretary to Government,
Handlooms, Handicrafts, Textiles & Khadi (G1)
Department,
Secretariat, Chennai – 9

2. The Director of Sericulture,
Nethaji Nagar,
Hasthampatti,
Salem – 636 007

... Respondents

Writ Petition is filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent relating to G.O.Ms.No.148, Handlooms, Handicrafts, Textiles and Khadi (G1) Department dated 07.09.2015, to quash the same and to issue consequential directions to the respondents to assign to the petitioner due seniority in the post of Assistant in the Sericulture Department as on 27.10.1981 by taking into account his previous service as assistant from 01.09.1969 FN in the Tamilnadu Ministerial Service and to grant all consequential benefits to the petitioner.



W.P.No.19303 of 2016

For Petitioner : Mr.M.Ravi

For Respondents : Mr.T.Chezhan
Additional Government Pleader

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent relating to G.O.Ms.No.148, Handlooms, Handicrafts, Textiles and Khadi (G1) Department dated 07.09.2015, to quash the same and to issue consequential directions to the respondents to assign to the petitioner due seniority in the post of Assistant in the Sericulture Department as on 27.10.1981 by taking into account his previous service as assistant from 01.09.1969 FN in the Tamilnadu Ministerial Service and to grant all consequential benefits to the petitioner.

2. The brief facts of the case, as averred by the petitioner, is as follows:

(i) The petitioner was appointed as assistant on 01.09.1969 and he was a permanent assistant at the office of the Commissioner for Disciplinary proceedings, Chennai. The petitioner was promoted temporarily as Superintendent w.e.f. 07.11.1977 and worked as Superintendent from 07.11.1977 to 31.12.1977. The petitioner's seniority

2/10



W.P.No.19303 of 2016

was revised consequent on transfer of one permanent assistant Mr.V.Sivasubramanian from the office of Deputy Commissioner for disciplinary proceedings, Madurai due to abolition of that office during the year 1977. The petitioner had given a general application on 19.01.1979 for transfer to any department and produced an application on 02.04.1979 for transfer as an Assistant in the Directorate of Sericulture, salem. The commissioner for Disciplinary Proceedings, Madras framed VII charges against the petitioner on 07.04.1979 and thereafter, the proceedings were dropped and all the charges framed against the petitioner was exonerated.

(ii) Further, as per the directions of the Government, the Director of Sericulture, Salem has issued order dated 05.05.1982 confirming the petitioner as assistant in the office of the Assistant Director of Sericulture, Hosur. The then Director of Sericulture, Salem has given temporary promotion to the Assistants and Junior Assistants of Industries and Commerce Department transferred to the present department as Managers and Assistants between 01.10.1979 and 06.10.1980 after obtaining option letters for permanent retention in the present department and their services were regularised with effect from the date of their joining in the promoted post as per Director's proceedings dated 04.08.1982.



W.P.No.19303 of 2016

(iii) Thereafter, the petitioner was relieved on 16.12.1993 A.N.in order to join as Assistant Accounts Officer in the office of the Workshop Superintendent, Regional Workshop (Health), vellore. The petitioner was promoted as Assistant Accounts Officer (Class IV) in Tamilnadu State Treasuries and Accounts Service and relieved from the department of sericulture on 17.12.1993. The petitioner was promoted as Assistant Accounts Officer (Class IV) in Tamilnadu Treasuries and Accounts Service and relieved from the department of Sericulture on 17.12.1993.

(iv) Subsequently, the petitioner was promoted as Accounts Officer (Class III) in the same service and posted as Accounts Officer, Directorate of Sericulture, Salem as per order dated 22.07.1998 of the Commissioner of Treasuries and Accounts, Chennai and joined as Accounts Officer on 06.08.1998.

(iv) After retirement in the year 2003, the petitioner sent a representation on 22.07.2005 to the Director of Sericulture, Salem requesting him to give the notional promotion as Superintendent w.e.f. 11.12.1986 and fix his pay in both the posts and grant annual increments in both the posts to enable the petitioner to get the difference of emoluments



W.P.No.19303 of 2016

from 01.06.1988 to 25.02.2003 based on the documents. The petitioner made representations to the Commissioner of Sericulture, Salem, requested to issue order on fixing the seniority, annual increment, revised pension and to claim arrears. The said authority rejected the petitioner's claim in proceedings dated 18.08.2008. As against the same, the petitioner preferred an appeal to Government on 04.02.2009 and requested for the relief as prayed for. The Government rejected the petitioner's appeal on 07.09.2015, challenging the said order, the present Writ Petition has been filed.

3. Resisting the same, the learned Government Advocate has filed a detailed counter affidavit and submitted that the petitioner's representation dated 04.02.2009 was processed and the Government / 1st respondent rejected the same in G.O.(Ms) No.148, Handlooms, Handicrafts Textiles and Khadi (G1) Department dated 07.09.2015 based on the observation of the 'committee on Appeal' as explained by the petitioner himself as the appeal cannot be complied with the provisions made under Rule 35(f) of the General Rules for the Tamilnadu State and Subordinate services. Further, as expressed by the Committee in the above Government Order.

“As the individual on his own willingness got transferred



WEB COPY



W.P.No.19303 of 2016

to treasuries and Accounts Department, he cannot claim promotion retrospectively in the Sericulture Department and also as he submitted time barred appeal cannot be complied with the provisions made under Rule 35(f) of the General Rules for the Tamilnadu State and Subordinate Services. In view of the above, the committee have recommended to reject the appeal of the individual to fix the seniority in the post of Assistant in the Department of Sericulture”.

Hence following the above said Rules, the Government has passed the rejection order and does not warrant any interference by this Court.

4. Besides the above, the learned Additional Government Pleader for the respondents submitted that the persons referred by the petitioner had retired long back and at this juncture, though the fact that the petitioner having got transferred to Treasuries and Accounts Department on own willingness cannot claim promotion retrospectively in the Sericulture department and also submitted time barred appeal for revision of seniority in the post of Assistant, the appeal cannot be complied with as per the provisions made under Rule 35(f) of the General Rules for the Tamilnadu State and subordinate services, had already been informed to the petitioner. The petitioner has approached this Court based on the same claim, which is devoid of merits and liable to be dismissed by this Court



W.P.No.19303 of 2016

and the order passed by the 1st respondent rejecting the claim of the petitioner vide G.O.(Ms) No.148 Handlooms, Handicrafts, Textiles and Khadi (G1) department dated 07.09.2015 is well in order, sustainable in law and not liable to be set aside. Further, the petitioner on his own option was transferred to the Department of Sericulture as Assistant from the Office of the Commissioner for Disciplinary Proceedings as per G.O.(MS) No.1208, Industries Department dated 26.08.1981 permanently and joined in Sericulture department on 27.10.1981 F.N.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and perused the documents placed on record.

6. It is not in dispute that the petitioner on his own volition obtained transfer to other department. Further, the petitioner's request / prayer seeking pay parity and arrears of pay, that too when he failed to file an appeal against the rejection order at correct time, cannot be considered at this juncture. The promotion cannot be given retrospectively at any point of time and it is against the service rules.



W.P.No.19303 of 2016

7. It is relevant to point out that the petitioner on his willingness obtained transfer to Treasuries and Accounts Department on promotion as Assistant Accounts Officer on 16.12.1993 and thereafter, obtained promotion in the department as Accounts officer and retired on superannuation on 28.02.2003 in the same post, as per proceedings of Commissioner of Treasuries and Accounts, Chennai -15. As the petitioner has already been transferred to another department [Treasuries and Accounts Department], the question of the claim of seniority in the previous department, viz., Department of Sericulture does not at all arise.

8. Considering the fact that the petitioner was given promotion as Commercial Accountant in the Department of Sericulture, as per proceedings dated 08.02.1995 and the petitioner having been worked as Commercial Accountant from 11.02.1985, has not raised a single finger regarding non inclusion of his name in seniority list prepared by the authority at that point of time and taking note of the fact that subsequently, based on petitioner's own willingness obtained transfer to the Treasuries and Accounts Department on promotion as Assistant Accounts Officer on 16.12.1993 and thereafter got promoted in that department as Accounts Officer and retired on superannuation on 28.02.2003, and now seeking



W.P.No.19303 of 2016

promotion, suffers from laches and therefore, the present petition is liable to be dismissed.

In view of the above, the present Writ Petition is dismissed. No costs.

16.03.2023

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking Order
ssd

To

1. The Government of Tamilnadu
rep. By Principal Secretary to Government,
Handlooms, Handicrafts, Textiles & Khadi (G1)
Department,
Secretariat, Chennai – 9
2. The Director of Sericulture,
Nethaji Nagar,
Hasthampatti,
Salem – 636 007



WEB COPY



W.P.No.19303 of 2016

V.BHAVANI SUBBAROYAN, J.,

ssd

W.P.No.19303 of 2016

16.03.2023