



W.P.No.8227 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8227 of 2013

and

M.P.No.1 of 2013

P.Kandasamy

.... Petitioner

Vs

1. The District Collector (P.D.Section)
Dharmapuri District,
Dharmapuri.

2. K.Paramasivam

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records pertaining to the order bearing ROC.No.6474/2012/K2 dated 19.01.2013 of the first respondent herein and quash the same in so far relates to the petitioner and refix the seniority of the petitioner in the cadre of Assistant by placing him over and above the second respondent in the cadre of Assistant by reckoning his date of appointment as 31.12.1999 with all consequential benefits such as retrospective promotion, fixation of pay and arrears of pay etc.,

For Petitioner : M/s.T.Hemalatha



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For R1 : Mr.Yogesh Kannadasan
Special Government Pleader

For R2 : No appearance

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order bearing ROC.No.6474/2012/K2 dated 19.01.2013 of the first respondent herein and quash the same in so far relates to the petitioner and refix the seniority of the petitioner in the cadre of Assistant by placing him over and above the second respondent in the cadre of Assistant by reckoning his date of appointment as 31.12.1999 with all consequential benefits such as retrospective promotion, fixation of pay and arrears of pay etc.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the first respondent and perused the materials available on record.

3. Initially the petitioner was working as Surveyor under



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the Survey and Land Record Department in Kancheepuram District with effect from 01.02.1990. He was absorbed in Rural Development Department as Junior Assistant by an order dated 15.03.1997 in Kanyakumari District. He was joined in the post of Junior Assistant on 16.04.1997. Thereafter, he was transferred from Kanyakumari District to Dharmapuri District on mutual basis on 19.10.2004 and his seniority will be fixed as per 20(b)(1) of Tamil Nadu Ministerial Service Rules.

4. While he was working as Junior Assistant in Kanyakumari District, he passed the departmental examination applicable to the post of Junior Assistant on 31.12.1999 and his service was regularised in the cadre of Junior Assistant with effect from 16.04.1997 and he completed the probation on 31.12.1999, the date on which the petitioner passed departmental examination applicable to the post of Junior Assistant. Thereafter, he was promoted as an Assistant on 01.09.2008. The first respondent failed to fix his seniority in the cadre of Junior Assistant by reckoning the date of appointment of Junior Assistant from 16.04.1997 and thereafter, fixed the seniority based on the Assistant



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cadre seniority. Therefore, he submitted a representation for re-fixation of seniority in the cadre of Assistant.

5. On perusal of the counter filed by the first respondent revealed that the petitioner's seniority was already fixed at Sl.No.9(a) of the Tamil Nadu Ministerial Service Special Rules 20(b)(1) in the cadre of Junior Assistant as per the proceedings dated 19.08.2008. In fact, the petitioner was temporarily promoted as Assistant on 01.09.2008 under the Rule 39(a)(i) of the Tamil Nadu Ministerial Service Special Rules by the proceedings dated 29.08.2008. Accordingly, his seniority was fixed at Sl.No.59 in the cadre of Assistant by the proceedings dated 06.05.2011 and the same was confirmed by the proceedings dated 19.01.2013.

6. That apart, the petitioner was transferred from Kanyakumari to Dharmapuri, as a result, his seniority was fixed at Sl.No.9(a) in the cadre of Junior Assistant as per Rule 20(b)(1) of the Tamil Nadu Ministerial Service Special Rules by the proceedings dated 19.08.2008. Therefore, the request of the petitioner was rightly rejected



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by the first respondent. Hence, this Court finds no infirmity or illegality in the order dated 19.01.2013 in ROC.No.6474/2012/K2 passed by the first respondent and the writ petition is devoid of merits and it is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

24.07.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
Lpp

To

The District Collector (P.D.Section)
Dharmapuri District,
Dharmapuri.

G.K.ILANTHIRAIYAN, J.



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