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W.P.No.17379 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.17379 of 2018

T.Sundarrajan

.. Petitioner

VS

1.Government of Tamil Nadu
Rep. By its Secretary,
Revenue Department,
Fort St.George, Chennai – 09.

2.The Director / Principal Secretary,
Survey and Settlement Directorate,
Chepauk, Chennai – 600 005.

3.The Secretary,
Tamil Nadu Public Service Commission,
Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the entire records which culminated in passing the order in Letter (D) No.212 dated 11.05.2018 on the file of the first respondent, quash the same and consequently direct the respondents to fix seniority of the petitioner in the cadre of Assistant as on the date on which he was promoted / transferred to the post of Assistant, namely, 29.09.1988/01.06.1988 with all consequential service benefits like promotion up to the post of Joint Director (Administration) and monetary benefits.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.R.Neethi Perumal
Government Advocate
for R1, R2
Dr.M.Devendran for R3



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ORDER

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Writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to the letter (D) No.212 dated 11.05.2018 on the file of the first respondent, Secretary, Revenue Department, Government of Tamil Nadu and quash the same and direct the respondents to fix seniority of the petitioner in the cadre of Assistant on the date on which he was promoted / transferred to the post of Assistant, namely, 29.09.1988 / 01.06.1988 with consequential service benefits, like, promotion up to the post of Joint Director (Administration) and monetary benefits.

2. The petitioner had been originally appointed as Stenotypist on 13.01.1984 on temporary basis. His services were regularized from 25.06.1984. He passed the departmental test between 1987 and 1988. He also underwent the survey training programme for 28 days between 02.03.1988 and 29.03.1988. He was temporarily promoted as Assistant on 29.09.1988. On 03.06.2009, he was promoted as Superintendent and he retired as Superintendent on attaining the age of superannuation on 30.04.2018.



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3. The grievance of the petitioner is that having been promoted to the post of Assistant on 29.09.1988, he should be considered as having been promoted in the promotion panel, which was normally drawn in March, 1988 and should be granted all necessary benefits from that particular date of promotion / 29.09.1988. His junior had been so promoted.

4. Learned counsel for the petitioner placed strong reliance on G.O.(Ms).No.93 P&AR Department dated 08.04.1994. That particular Government Order was passed when the categories of the Typist and Steno-typist were split into two separate categories Typist and Steno-typist. It must also be kept in mind that for the further promotion of Assistant, the feeder categories were Steno-typist and Junior Assistant. The ratio in which such promotion given was 4 : 1, namely, four Junior Assistant and one Steno-typist. The petitioner claimed that one post of Steno-typist.

5. According to learned counsel for the petitioner, the services of the petitioner was very parallel to another Junior Assistant / S.K.Fathima. He, therefore, claims that the junior had retired as Joint Director, and since the petitioner had not been



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considered in the promotion panel drawn in March 1988, he unfortunately had to retire only as Superintendent. It is this factor, which has necessitated filing of the writ petition.

6. The crucial facts are that for promotion as Assistant, the petitioner will also have to qualify in three separate tests, namely, the District Office Manual Paper, Survey Training Programme for a period of 28 days and Accounts Test for Sub-Ordinate Officers. These are essential to be considered for promotion as Assistant.

7. The petitioner had passed the Accounts Test for Subordinate Officers in May, 1987. He also completed the 28 days of Survey Training Programme on 29.03.1988. So far those two qualifications are concerned, it will make him eligible for consideration to that little extent for the promotion of Assistant. However, the petitioner also should pass the District Office Manual Paper. He passed that particular examination only in May, 1988. This he had passed after the crucial date for the panel to be prepared in the year 1988, which is normally prepared in March, 1988. Therefore, when the panel was drawn in March, 1988, he had not qualified in one paper, namely, District Officer Manual Paper.



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8. This fact has been pointed out in the counter affidavit by claiming that therefore, the petitioner cannot be considered for promotion in the panel drawn in March, 1988. This fact had also been reiterated by learned Additional Government Pleader, who stated that for promotion to the post of Assistant, the qualifications are fundamentally required and the petitioner had not passed one of them, namely, District Office Manual Paper. However, the petitioner was temporarily promoted to the post of Assistant on 29.09.1988. Since he had been so promoted on 29.09.1988, reliance is made on the G.O.(Ms).No.93, Personnel and Administration Reform (PER-B) Department, dated 08.04.1994, which provided as follows:-

"8.The Government further direct that the seniority of persona already appointed to the posts of Assistant in the Tamil Nadu Ministerial Service/Tamil Nadu Judicial Ministerial Service from the common category of typist /Steno-typist during the period from 01.06.1988 to 01.08.1992 shall not also be disturbed."

9. Learned counsel states that since he had been promoted on 29.09.1988, which was between 01.06.1988 and 01.08.1992, as stated above, the seniority of the petitioner should not be disturbed. But, however, that promotion is only temporary. The petitioner is however eligible for consideration with right to be promoted as Assistant in the panel on 01.03.1989. He is entitled to that right, while the petitioner has to be granted. Therefore, to that



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limited extent, the impugned order is set aside and a direction is given to the respondents to consider the promotion of the petitioner in the panel 01.03.1989 on notional basis and examine as to where he would retire at the time of retirement when he attained the age of superannuation and consider that particular aspect till the retirement as notionally but grant necessary benefits with respect to the pension which the petitioner is drawing. Such proceedings will have to be issued within a period of sixteen weeks from the date of receipt of a copy of this order. It may also be examined whether this would be on par with the Junior / Fathima.

10. Writ petition stands disposed of. No costs.

01.09.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

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Revenue Department,Fort St.George, Chennai – 09.
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C.V.KARTHIKEYAN,J.

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