



W.P.No.29350 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.29350 of 2023

N.Vadivelani

... Petitioner

Vs.

The Director,
Sericulture Department,
Salem,
Salem District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to consider and pass orders based on the representation of the petitioner dated 12.09.2020 on the file of respondent herein in accordance with law to secure the ends of justice.

For Petitioner : Mr.M.Ramadoss
for Mr.Kalaikovan

For Respondent : Mr.V.Manoharan
Additional Government Pleader

ORDER

With consent on either side, the main Writ Petition itself is taken up for final disposal at the admission stage.



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2.This Writ Petition has been filed seeking for a direction to the respondent to consider and pass orders based on the representation of the petitioner dated 12.09.2020 in accordance with law to secure the ends of justice.

3.It is the case of the petitioner that she is a B.Com., graduate and she was appointed as Typist in the office of the respondent through the Tamil Nadu Public Service Commission. As per proceedings of the respondent dated 25.02.2013, she has been working as Typist with effect from 25.02.2013 After Noon. Along with the petitioner, one M.Radha has also joined as Typist on the same day. Though she joined in the service on the same day the petitioner is a senior in age and as per the rules, she should be placed as senior in the seniority list. As per the proceedings of the respondent, dated 27.03.2017, the petitioner was placed at Sl.No.158 and M.Radha who is junior to the petitioner, was placed at Sl.No.144. Thereafter, as per proceedings of the respondent dated 15.04.2014, the service of the petitioner was regularised with effect from 25.02.2013 After Noon. After expiry of maternity leave from 07.09.2014 to 04.03.2015, the petitioner joined duty on 05.03.2015 Fore Noon. The respondent issued



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orders stating that the petitioner completed his probationary period with effect from 24.08.2015 After Noon.

4.It is the further case of the petitioner that for the promotion to the cadre of Assistant, having included the name of the petitioner in the seniority list, for the academic year 2016-2017, as per proceedings dated 28.06.2016, promotion was given to the petitioner and the petitioner is now working as Assistant from 30.06.2016. Further, the said Radha has been working as Assistant from 04.03.2016 Fore Noon. Due to the maternity leave, the petitioner was not included in the seniority list for the year 2015-2016. Therefore, the petitioner submitted a representation dated 12.09.2020 to the respondent seeking notional promotion from 04.03.2016 and fix the seniority placing the petitioner a head of the said Radha in the seniority list of Assistant, but it was invain. Therefore, this petition has been filed.

5.The learned counsel for the petitioner would submit that due to maternity leave, the probationary period of the petitioner was announced at a deferred period and the name of the petitioner was not included in the seniority list for the year 2015-2016. He would submit that in a similar issue, as per the Order of this Court in W.P.No.8115 of 2018 dated



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25.04.2018, this Court already ordered that the period spent on maternity leave should be considered as duty period for the purpose of promotion.

Therefore, the period spent on maternity leave from 07.09.2014 to 04.03.2015 should be treated as duty period and the petitioner is eligible for promotion in the place of Sl.No.165 to in the place of Sl.No.150.

6.The learned Additional Government Pleader for the respondent would submit that if a period of eight weeks time is granted, the respondent would consider the representation of the petitioner and pass appropriate orders.

7.On a perusal of the records, it is seen that due to the maternity leave, the petitioner was not included in the seniority list for the year 2015-2016. Therefore, she sent a representation dated 12.09.2020 to the respondents to consider the period spent on maternity leave from 07.09.2014 to 04.03.2015 as duty period. Further, in a similar case, this Court in W.P.No.8115 of 2018 dated 25.04.2018 directed the respondents that the period spent on maternity leave should be considered as duty period for the purpose of promotion. Considering the submissions made on either side, this Court directs the respondent to consider the representation of the petitioner dated 12.09.2020



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and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

Accordingly, this Writ Petition is disposed of. No costs.

Consequently, connected Miscellaneous Petition is closed.

11.10.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To

The Director
Sericulture Department
Salem
Salem District



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V.BHAVANI SUBBAROYAN, J,

mps

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