



W.P.(MD)No.991 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.991 of 2023
and
W.M.P(MD)No.929 of 2023

G.Esakki

Vs.

... Petitioner

1. The Additional Chief Secretary to Government,
Labour Welfare and Skill Development,
Secretariat, Chennai - 600 009.
2. The Principal Secretary / Commissioner of Labour,
DMS Building,
Teynampet,
Chennai - 600 006.
3. The Assistant Commissioner of Labour,
Social Security Scheme,
Tenkasi,
Tenkasi District.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling the records of the second respondent i.e., the Principal Secretary / Commissioner of Labour, Chennai in his proceedings in No.E1/24309/2022 dated 06.01.2023 and communicated by the Assistant Commissioner of Labour,



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Social Security Scheme, Tenkasi, in his endorsement No. Me.Ku. No. 106/2022 dated 10.01.2023 and quash the same and consequently direct the first and second respondents i.e., the Additional Chief Secretary to Government, Labour Welfare and Skill Development, Chennai and the Principal Secretary / Commissioner of Labour, Chennai to draw the Inter-se seniority list between Directly Recruited Assistants and Promotee Graduate Assistants and based on it, the list of Upgraded Superintendent for the year 2022-2023 may be prepared and notified within a specified time frame that may be fixed by this Court.

For Petitioner	: Mr.S.Visvalingam
For Respondents	: Ms.K.Christy Theboral Additional Government Pleader

ORDER

This writ petition has been filed to quash impugned proceedings issued by the second respondent in No.E1/24309/2022, dated 06.01.2023 and consequently, to direct the first and second respondents to draw the Inter-se seniority list between Directly Recruited Assistants and Promotee Graduate Assistants and based on it, to prepare the list of Upgraded Superintendent for the year 2022-2023 and notify the same, within a specified time frame that may be fixed by this Court.



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2. The petitioner was recruited through Tamil Nadu Public Service Commission in the year 2012-2013 and appointed as Junior Assistant on 30.01.2013. Thereafter, he was promoted as Assistant. The grievance of the petitioner is that the Principal Secretary / Commissioner of Labour, Chennai, has drawn the approved list of upgraded Superintendent for the year 2022-2023 and his name has not been included in the above said approved list. The main grievance of the petitioner is that before preparing the above mentioned list, the Principal Secretary ought to have prepared inter-se seniority list between Promotee Graduates and Directly Recruited Assistants as per G.O.Ms.No.106 P & AR(B) Department, dated 01.09.2020. The said G.O., was issued in terms of the judgment passed by the Hon'ble Apex Court, dated 12.03.2019 and the same was followed by the Division Bench of this Court in W.A(MD)No.836 of 2018 etc., batch, wherein it has been held that *inter se* seniority shall be prepared every 15th March of every year. But, in the petitioner's Department, inter se seniority list has not been prepared before drawing the approved list of Upgraded Superintendent for the year 2022-23, even after amendment of the Tamil Nadu Ministerial Service Rules on



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01.09.2020. In the inter-se seniority list, non graduate promotee Assistants will not be included. But in the approved list, non graduate promotees have been included. According to the petitioner, if the approved list of Upgraded Superintendent for the year 2022-2023, for which the crucial date is 15.03.2022, has been drawn after drawing the inter se seniority list between Promotee Graduates and Directly Recruited Assistants, the petitioner's name would have been included in the approved list. Hence, challenging the seniority list, dated 06.01.2023, the petitioner has filed this writ petition.

3. Mr.S.Visvalingam, learned counsel appearing for the petitioner would submit that in the impugned seniority list itself, it is made clear that objections and claims if any, for non-inclusion of names in the panel, shall be preferred before the Principal Secretary/Commissioner of Labour, within 15 days from the date of receipt of order. Therefore, it would suffice, if the petitioner is granted liberty to petitioner to approach the second respondent to work out his remedy.



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4. Heard the learned Special Government appearing for the respondent on the above said submissions.

5. In view of the fair submission made by the learned counsel appearing for the petitioner, without interfering with the impugned proceedings, this Court grants permission to the petitioner to approach the second respondent to work out his remedy, as against the non-inclusion of his name in the approved list, dated 06.01.2023, within a period of two weeks from the date of receipt of a copy of this order. On filing such appeal, the Principal Secretary / Commissioner of Labour, Chennai, is directed to consider the same and pass appropriate orders on merits and in accordance with law, based on the amendment made in Tamil Nadu Ministerial Service Rules, dated 01.09.2020, within a period of six weeks thereafter.

With the above direction, this writ petition is disposed of.
No Costs. Connected miscellaneous petition is closed.

19.01.2023

ssb

NCC:Yes/No
Index:Yes/No

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