



W.P.(MD)No.15998 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.15998 of 2019

N.Raju

... Petitioner

Vs.

1.The Registrar General,
High Court of Madras, Chennai-104.

2.The Principal District Judge,
Ramanathapuram District,
Ramanathapuram.

3.A.Karunanithi

4.P.Muthusamy

5.T.Jegajeevanram

6.M.Ramanathan

7.R.Murugesan

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent in ROC.No.399.2013/C1, dated 16.04.2019 which was communicated to the petitioner by the 2nd respondent on 20.05.2019 and quash the same and consequently, to direct the respondents 1 and 2 to promote



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the petitioner as Junior Bailiff the date on which the respondents 3 to 7 got promoted on 10.03.2008 and for grant of selection grade with other service and monetary benefits.

For Petitioner : Mr.S.Govindan
For R1 & R2 : Mr.K.Samidurai
For R3 to R7 : No Appearance

ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The order of rejection dated 16.04.2019, rejecting the claim of the writ petitioner for grant of retrospective promotion to the post of Junior Bailiff with effect from the date on which his juniors were promoted, is under challenge in the present Writ Petition.

2.The writ petitioner was appointed as Watchman on 21.01.1993. The respondents 3 to 7 herein were appointed as Watchman on 19.11.1993. The writ petitioner was posted as Masalchi on 22.11.1993. However, the petitioner acquired the minimum educational qualification of pass in 8th standard on 16.12.2004 and became eligible for appointment to the post of Office Assistant.



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By way of transfer of service, the petitioner was posted as Office Assistant with effect from 30.06.2006. The next avenue for promotion is to the post of Junior Bailiff. Since the juniors to the petitioner were promoted to the post of Junior Bailiff with effect from 10.03.2008, the petitioner claimed retrospective promotion to the post of Junior Bailiff on par with the respondents 3 to 7, who were juniors to him in the post of Watchman at the time of initial appointment. It is not in dispute that the petitioner was also promoted to the post of Junior Bailiff with effect from 01.02.2012.

3.The learned counsel appearing for the petitioner mainly contended that the post of Watchman, Masalchi and Office Assistant carry identical scale of pay and therefore, all the employees working in those categories are eligible for the promotion to the post of Junior Bailiff under the rules. In other words, the posts of Watchman, Office Assistant, Masalchi and other categories falling under the Tamil Nadu Basic Service Rules are the feeder categories for promotion to the post of Junior Bailiff. Since the petitioner was deprived of his promotion on par with his juniors, he has filed this Writ Petition.



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4. In order to substantiate the claim of the petitioner, the learned counsel for the petitioner solicited our attention with reference to the Tamil Nadu Basic Service Rules and the post of Office Assistant is falling under Class-III Category 1 and the posts of Night Watchman and Masalji are falling under Class-IV Category 1. However, all these posts carry identical scale of pay and eligible for further promotion to the post of Junior Bailiff.

5. It is needless to state that administration has to prepare a combined seniority list of Class-I employees for further promotion to the post of Junior Bailiff in the order of seniority. Promotions are to be granted strictly in accordance with the rules. Though promotion *per se* cannot be claimed as an absolute right, consideration for promotion is a fundamental right. That being the principles, the competent authorities are bound to prepare a panel in the order of seniority by affording opportunity to all the candidates, who are all waiting to secure promotion in accordance with the rules in force.

6. In the present case, the petitioner acquired requisite qualification of pass in 8th standard in the year 2004 and thus, the case of the petitioner ought to



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have been considered on his acquisition of the requisite qualification in the year 2004. However, his name was omitted and his juniors, namely, the respondents 3 to 7 were promoted to the post of Junior Bailiff on 10.03.2008 and the petitioner was promoted on 01.02.2012. That being the facum, the petitioner is entitled for the relief of retrospective promotion.

7.In view of the fact that the case of the petitioner was not considered in accordance with the provisions of the Tamil Nadu Basic Service Rules, we are inclined to grant the relief in favour of the writ petitioner.

8.Accordingly, the respondents 1 and 2 are directed to promote the petitioner retrospectively to the post of Junior Bailiff notionally with effect from 10.03.2008, the date on which the respondents 3 to 7 were promoted and fixation of pay is also to be done notionally with retrospective effect from 10.03.2008 and monetary benefits are to be paid prospectively. Consequently, the name of the petitioner is to be inserted in an appropriate place in the seniority list in the post of Junior Bailiff. The said exercise is directed to be completed within a period of eight weeks from the date of receipt of a copy of this order.



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9. With the above direction, this Writ Petition stands allowed. No costs.

(S.M.S., J.) & (V.L.N., J.)

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva

To

1. The Registrar General,
High Court of Madras, Chennai-104.

2. The Principal District Judge,
Ramanathapuram District,
Ramanathapuram.



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