



W.P(MD)No.1743 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P(MD)No.1743 of 2016

and

W.M.P.(MD)No.1508 of 2016

V.Ponnusamy

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep., by its Principal Secretary to Government,
Revenue Department, Secretariat,
Chennai.

2.The Additional Chief Secretary / Commissioner
of Revenue Administration,
Chepauk, Chennai.

3.The District Collector,
Theni District, Theni.

4.The District Revenue Officer,
O/o. The Collectorate,
Theni, Theni District.

5.S.Anbu Chezhan

6.S.Baskaran

7.R.Mangani

8.S.Surulivel

9.K.Jeyabarathi

10.M.Indira

11.A.Akila

12.V.Nagarajan

13.R.Velmurugan



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14.A.Sivakumar
15.P.Murugan
16.V.Sivankalai
17.K.Nagarajan
18.M.Pongudalingam
19.M.Muthunavarethinam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned seniority list issued by the 3rd respondent in his proceedings in Na.Ka.No.A2/34888/2013, dated 31.07.2015 and quash the same as illegal and consequentially to direct the respondents to fix the seniority of the petitioner above than the private respondents herein in the light of the order dated 02.04.2006 passed by this Court in the batch of Writ Petitions in W.P.No.21654 of 2004 and W.P.No.3822 of 2006 etc.,.

For Petitioners : M/s.A.Shapna,

For M/s.Ajmal Associates

For R1 to R4 :Mr.T.Amjadkhan, Government Advocate

For R5, R8, R10 to

R13, R15 to R19 : No Appearance

ORDER

The writ petitioner at the time of filing the Writ Petition was working as Revenue Assistant. He was initially appointed as a Typist on 09.09.2009. Prior to his appointment on 15.11.2007, a notification was issued by the Tamil Nadu Public Service Commission (TNPSC), in which the petitioner participated



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in the examinations on 27.01.2008. The results of the examinations were published on 07.11.2008 and the appointment order was issued on 16.07.2009.

This is the past history of the petitioner joined services of the 1st respondent.

2.Insofar as the private respondents, namely, respondents 5 to 19 are concerned, they were originally appointed in the year 2003 and to meet the exigencies, which were prevailing during the relevant point of time, the private respondents were purely appointed on temporary basis. By an order dated 19.09.2006, the 1st respondent decided to absorb the candidates, who had been working in terms of the appointment order issued on 04.07.2003. Consequentially, the TNPSC issued a notification on 06.11.2007, stating that it will conduct special qualifying examinations for the private respondents and the persons similarly situated. The private respondents wrote the examinations on 07.02.2008 and they were absorbed in service in the cadre of Junior Assistant on 27.05.2009. They were promoted to the post of Assistant with effect from 31.08.2012.

3.From the narration of the aforesaid facts, it is clear that the petitioner joined in service only on 09.09.2009 as a Typist, whereas the private respondents joined services on 27.05.2009. In other words, even before the petitioner was appointed, the private respondents were already working.



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4.The grievance of the writ petitioner is that the private respondents have been shown as seniors to the writ petitioner. The learned counsel for the writ petitioner relies upon G.O.(Ms)No.548, Personnel and Administrative Reforms (PERCJ) Department, dated 19.06.1987. According to her, the persons, who were appointed through TNPSC should be placed as seniors to those who had been appointed under General Rule 10a(1). She also relies upon the judgment of the Division Bench of the Principal Seat of this Court in W.P.No.21654 of 2004, dated 03.04.2006.

5.I heard M/s.A.Shapna, learned counsel appearing for the writ petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents 1 to 4.

6.I am unable to agree with the learned counsel for the petitioner for the simple reason that G.O.(Ms)No.548, dated 19.06.1987 was issued for addressing the specific contingency that arose due to special absorption that had been conducted in the year 1984. The common order in W.P.No.21654 of 2004 and W.P.No.3822 of 2006, dated 03.04.2006 also related to the said special absorption of the year 1984. The said Government Order cannot be extended to the persons like the writ petitioner or the private respondents



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herein. Mere fact that the petitioner had secured employment in the 1st respondent through TNPSC does not place him as superior to the persons, who had already been appointed before him in the very same cadre.

7.A perusal of the said order dated 03.04.2006 passed by the Division Bench of this Court makes it clear that as it was the case of special absorption of the year 1984, this Court had ordered by following G.O.(Ms)No.548, dated 19.06.1987 that the persons, who had been appointed by TNPSC should be placed above to those who had been appointed by special absorption in the year 1984. That being one time measure, it cannot be applied for all cases. Therefore, both the points are failed and I am unable to grant the relief, the writ petitioner seeks for.

8.Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.11.2023

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

Yuva



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V.LAKSHMINARAYANAN, J

Yuva

To

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