



W.P. No.12211 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.08.2024

Pronounced on : 29.11. 2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.12211 of 2009

G.Shaankari

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by
Secretary to Government,
Home (Court-VI) Department,
Secretariat,
Chennai – 600 009.

2.The Director of Prosecution,
Kamarajar Salai,
Chennai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondent 1 and 2 to promote the petitioner as Dy. Director of Prosecution on par with petitioner's juniors based on the revised seniority list in G.O.Ms.No.287 dated 22.02.2008 and grant all consequential service and monetary benefits.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.Vadivelu Deenadayalan
Additional Government Pleader



ORDER

This writ petition has been filed seeking a direction to the respondents 1 and 2 to promote the petitioner as Deputy Director of Prosecution on par with her juniors in terms of the revised seniority list issued in G.O.No.287 Home (Courts.VI) Department dated 22.02.2008 and grant all consequential service and monetary benefits.

2. The petitioner herein was initially appointed as Assistant Public Prosecutor Grade-II in the year 1980 and thereafter, she was promoted to the post of Assistant Public Prosecutor Grade-I and subsequently to the post of Assistant Director of Prosecution. While so, there was a dispute in connection with the seniority in the cadre of Deputy Director of Prosecution/ Assistant Public Prosecutor and in connection therewith, the petitioner also filed the original application before the then Tamil Nadu Administrative Tribunal, which was subsequently transferred to this Court and renumbered as W.P.No.6554 of 2006. Further, during the pendency of the said writ petition, another writ petition filed by others vide W.P.No.4259 of 2006 was disposed of directing re-fixation of seniority and in terms of the said orders, the revised seniority list came to be issued by the Government by issuing



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G.O.Ms.No.287, dated 22.02.2008 re-fixing the seniority. The petitioner is seeking consideration of her case for promotion to the post of Deputy Director of Prosecution in terms of the revised seniority issued in G.O.Ms.No.287, dated 22.02.2208.

3. In response to the notice issued by this Court, the 1st respondent filed detailed counter affidavit stating that the respondents have taken steps for issuing the revised seniority list and accordingly, the rank of the petitioner was upgraded, and the Government is also taking steps for issuing consequential notional promotion orders and it is only because of the pendency of the disciplinary proceedings against the petitioner, the case of the petitioner cannot be considered, unless and until the disciplinary proceedings are concluded one way or the other. The relevant paragraph from the counter affidavit i.e., paragraph 9, 13 and 14 reads as under:

“9.It is submitted that as per the seniority published in the G.O.No.615 Home Department dated 26.05.1998, Tr.W.Pon Peter Amaldoss was at SI.No.92 and Tr.V.Jayakumar was at SI.No.95, whereas Tmt.G.Shankari was at SI.No.117. While drawing the promotion panel for the year 2005-2006 Tr.W.Pon Peter Amaldoss and



Tr.V.Jayakumar were included and orders issued placing them at SI.No.3 and SI.No.4. They were promoted and posted as Deputy Director of Prosecution as per G.O.(3D) No.110 Home (Cts.VI) Department dated 29.12.2006. However, the revised seniority was issued in G.O.Ms.No.287, Home (Courts VI) Department, dated 22.02.2008 based on the orders of this Honourable Hight Court dated 30.11.2006 in W.P.No.23866/06 and 4259/2006.

13. It is submitted that after the publication of a revised seniority in G.O.Ms.No.287 Home (Cts.VI) Department dated 22.02.2008, Tmt.G.Shaankari Additional Public Prosecutor is placed at SI.No.19 and Tw.W.Pon Peter Amaldoss is placed at SI.No.21 and Tr.V.Jayakumar is placed at No.24. The juniors were reverted as Assistant Directors of Prosecution. It is clear that after the issue of the revision of seniority no junior to her was promoted as Deputy Director of Prosecution.

14. It is submitted that in G.O.(2D).No.324, Home (Courts VI) Department, dated 31.07.2009, the Government have permitted Tmt.G.Shaankari, Legal Advisor, Tamil Nadu Uniformed Services Recruitment Board, Chennai to retire from service on superannuation on 31.07.2009 A.N. without prejudice to the disciplinary



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cases pending against her in the charge memo issued by the Collector, Kancheepuram in RC.No.61475/82/M7, dated 12.02.1983, charge memo issued by the Collector, Kancheepuram in Rc.No.30198/83/M7, dated 21.02.1983 and charge memo issued by the Director of Prosecution in RC.No.2884/DOP/A4/2005, dated 29.07.2005.”

4. From the above, it is evident that the persons, who are shown as seniors to the petitioner, in terms of the seniority published in G.O.No.615 dated 26.05.1998, have been placed as juniors in the revised seniority list issued in G.O.Ms.No.287 dated 22.02.2008 and consequently, the Government issued further orders in G.O.(2D).No.324 dated 31.07.2009. The charge memo dated 29.07.2005 referred to paragraph 14 of the counter affidavit has been quashed by this Court today, in W.P.No.1712 of 2006 and therefore, the said charge memo cannot be an impediment for the respondents to consider the case of the petitioner for notional promotion on par with her juniors.

5. Though it is stated that the two other charge memos were issued on 12.02.1983 and 21.02.1983, no information is furnished as to whether



such proceedings initiated through said charge memos are still pending or not.

Even if the said charge memos are pending, the question of allowing the respondents to continue such proceedings at this length of time i.e., after a lapse of 40 years would definitely cause great prejudice to the petitioner and the same would be in further violation of principles of natural justice. Hence, the question of continuation the said disciplinary proceedings initiated through charge memos dated 12.02.1983 and 21.02.1983 does not arise at this length of time, in case if such proceedings are not already concluded.

6. In the light of the categorical statement made by the respondents in the counter affidavit as extracted above, the respondents are directed to consider the case of the petitioner for notional promotion to the post of Deputy Director of Prosecution, and in case, if any of her juniors were promoted, she shall also be extended the benefit of such promotion with all consequential benefits including monetary benefits from the date on which her immediate juniors were promoted, as expeditiously as possible, at any rate within a period of three (3) months from the date of receipt of a copy of this order.



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7. Accordingly, this writ petition is disposed of. The connected miscellaneous petitions, if any, shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
dpa

To:

- 1.The Secretary to Government,
Government of Tamil Nadu,
Home (Court-VI) Department,
Secretariat,
Chennai – 600 009.
- 2.The Director of Prosecution,
Kamarajar Salai,
Chennai.



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MUMMINENI SUDHEER KUMAR,J.
dpa

Pre-Delivery Order made in
W.P.No.12211 of 2009

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