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W.P. No. 7205 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 7205 of 2018

S. Malarvizhi

... Petitioner

Vs.

1.The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C. Nagar,
Park Town, Chennai – 600 003.

2.The Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Fort St. George,
Chennai – 600 009.

3.The Secretary to Government,
Revenue Department,
Secretariat, Fort St. George,
Chennai – 600 009.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the third respondent to re-fix the seniority of the petitioner based on her representation made in the month of November 2015 and on the recommendation dated 18.11.2016 made in C.No.658/PSD-D/1997 by the first respondent and consequentially place her accordingly in the Seniority list and thus render justice.



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For Petitioner : Mr. J. Deliban
For Respondents : Mr. R. Bharanidharan,
Standing Counsel for R1
Mr. M. Alagu Gowtham,
Government Advocate for RR2 & 3

ORDER

This Writ Petition has been filed seeking a direction to the third respondent to re-fix the seniority of the petitioner based on her representation made in the month of November 2015 and on the recommendation dated 18.11.2016 in C.No.658/PSD-D/1997 of the first respondent and for a consequential relief to place her according to the seniority list.

2. During the course of hearing today, the learned Government Advocate appearing for the respondents 2 and 3, has placed a copy of the order of the Apex Court in Contempt Petition (CIVIL) Diary No(s). 6415 of 2021 in SLP(C) No.2886 of 2016 dated 18.04.2023. On relying on the said order, the learned Government Advocate would submit that the issue involved in the present writ petition is squarely covered by the order of the Apex Court wherein, identical issue has been considered.

3. Learned counsel for the petitioner would submit that this writ petition can be disposed of in terms of the order of the Apex Court by recording the relevant portion of the Apex Court order.



4. Having considered the submissions of the learned counsel, in our view, it is appropriate to extract the relevant portion of the order of the Apex Court stated supra, as herein under: -

“17. We, therefore, though are not inclined to disturb the seniority lists which are finalized prior to 10th March, 2003 wherein the benefit is granted to either of the parties i.e. as per the roster or as per the seniority list, the seniority list finalized after 10th March 2003 will have to be re-visited in accordance with the law laid down by this Court in Bimlesh Tanwar (supra) and the first judgment of the Madras High Court.

18. We are unable to accept the contention of the learned AAG that the State is not equipped to complete the exercise. He submitted that this exercise has to be conducted in about 54 Departments.

19. If the State has 54 Departments, at least there would be 54 Secretaries/Principal Secretaries/Additional Chief Secretaries heading those Departments. Under such Secretaries, there will be at least half a dozen Joint Secretaries and more than a dozen Deputy Secretaries and about two dozen under Secretaries working in each of the Department. Further, at the divisional levels also, there would be Heads who would be heading the Department insofar as the Divisions are concerned. We are therefore, not inclined to accept the argument.

20. If the State has the will to do, it can very well comply with the orders passed by the Division Bench of the Madras High Court and affirmed by this Court.



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21. *We therefore, direct the State Government to complete the exercise of finalizing the seniority lists of selection processes conducted after 10th March, 2003 on the basis of the principle that the seniority list shall be reckoned only on the basis of the merit as determined by the TNPSC in the selection process.*

22. *It is further made clear that if any list is finalized in case of selections held prior to 2003 giving benefit to the persons selected as per their seniority or as per merit, the same shall also not to be disturbed.”*

5. This Court also satisfied that the issue in the present case is already decided by the Apex Court and accordingly, this Writ Petition is disposed of, as per the same terms of the Apex Court order.

6. There shall be no order as to costs.

03.09.2024

Index :Yes/No
Neutral Citation :Yes/No
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