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WP.No.7092 of 2023

In the High Court of Judicature at Madras

Dated : 26.9.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.7092 of 2023
& WMP.No.7167 of 2023

B.T.Vaidhegi

...Petitioner

Vs

1.The State of Tamil Nadu, rep.
by its Principal Secretary,
Home (Police V) Department,
Fort St.George, Chennai-9.

2.The Additional Chief Secretary
to Government, Home (Police V)
Department, Fort St.George,
Chennai-9.

3.The Director General of Police,
O/o the Director General of
Police, Chennai-4.

4.The Secretary, Tamil Nadu
Public Service Commission,
Frazer Bridge Road, Chennai-3.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records relating to the order of the first respondent made in G.O.(2D) No.80 Home (Pol.V) Department dated 28.3.2017 and that of the 2nd respondent's proceedings made in Lr.No.2519/Police.V/2022-3 dated



WP.No.7092 of 2023

26.10.2022, quash the same and consequently direct the respondents to revise and re- fix the seniority of the petitioner as per the Rules.

For Petitioner : Mr.L.Chandrakumar
For R1 to R3 : Mr.P.Balathandayutham, SGP
For R4 : Mr.R.Bharanidharan,
Standing Counsel

ORDER

This writ petition has been filed by the petitioner challenging G.O.(2D) No.80 dated 28.3.2017 issued by the first respondent and the proceedings of the second respondent dated 26.10.2022 and for a consequential direction to the respondents to revise and refix her seniority as per the Rules.

2. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for respondents 1 to 3 and the learned Standing Counsel appearing for the fourth respondent.

3. The case of the petitioner is as follows :

(i) The petitioner was initially selected through the Tamil Nadu Public Service Commission (TNPSC) Group IV Notification of the year 1986. Based on her merit, she was appointed as a Steno Typist during the year 1987. Thereafter, she was promoted as a Superintendent.



WP.No.7092 of 2023

She got further promotion as an Administrative Officer, which post she has been holding at the time of filing this writ petition.

(ii) As per the General Rules of the Tamil Nadu State and Subordinate Service Rules, the seniority of the candidates appointed through the TNPSC should be placed and fixed first along with the same batch mates and the persons appointed either through compassionate appointment or under Rule 10(a)(1) of the said Rules must be placed below the recruits of the TNPSC. In the case of the petitioner, this was not strictly followed and as a result, in the seniority list that was published by the third respondent dated 22.8.2012, the petitioner was placed below those persons, who were appointed on compassionate grounds or under Rule 10(a)(i) of the said Rules.

(iii) Aggrieved by that, the petitioner submitted a representation on 12.9.2012 to the first respondent and sought for drawal of a seniority list in accordance with the Statutory Rules. Since no action was taken on the said representation, the petitioner filed W.P.No. 22244 of 2016 before this Court. Further, this Court, by order dated 28.6.2016, disposed of the said writ petition directing the first respondent to consider the said representation of the petitioner and pass appropriate orders within a period of two months from the date of receipt of a copy of the said order.



WP.No.7092 of 2023

(iv) Based on the directions issued by this Court in the said order dated 28.6.2016, the first respondent issued G.O.(2D) No.80 dated 28.3.2017 rejecting the claim of the petitioner. The said Government Order came to be communicated to the petitioner through the letter of the third respondent dated 05.4.2017.

(v) Again, the petitioner challenged the said Government Order dated 28.3.2017 by filing W.P.No.22343 of 2017 before this Court. W.P.No.22343 of 2017 was later withdrawn on 18.2.2022 on the understanding that the respondents were willing to reconsider the claim made by the petitioner. However, the second respondent, through the letter dated 26.10.2022, rejected the claim made by the petitioner and refused to rectify the error that had crept in the seniority list. It is under these circumstances, the Government Order dated 28.3.2017 issued by the first respondent and the subsequent order dated 26.10.2022 passed by the second respondent came to be challenged by filing this writ petition.

4. Respondents 1 to 3 filed a counter wherein they have taken a stand as follows :

"16. With reference to the averments made in paragraph 4 of the affidavit, it is submitted that the averments made by the petitioner is not at all true. It is submitted that the petitioner/candidate allotted from



WEB COPY



WP.No.7092 of 2023

Tamil Nadu Public Service Commission 1986 batch, who came to be appointed from 18.2.1987 onwards. As Per G.O.Ms.No.548 dated 19.6.1987, the seniority of 10(a)(i) candidates (absorptionists) was fixed below the candidates of the Tamil Nadu Public Service Commission 1983 batch. The seniority of candidates allotted through Tamil Nadu Public Service Commission 1986 batch, who joined between 28.1.1987 and 17.2.1987 were placed below the 10(a)(i) candidates as per the rank obtained by the Tamil Nadu Public Service Commission 1986 batch candidates and mentioned in the approved list received from Tamil Nadu Public Service Commission and not according to their date of appointment. The Tamil Nadu Public Service Commission appointees appointed subsequent to her appointment (her batch mates) during the year 1987 and 1988 are now placed above the petitioner's name for the reason that their notification was of the year 1983 and the compassionate appointees over this period i.e from 1983 to 1987 are also placed at the appropriate place in the seniority list.

17. With reference to the avements made in paragraph 5 of the affidavit, it is submitted that the contents of the petitioner is not at all true since a seniority list published on 22.8.2012 was prepared from the appointments of Junior Assistants/Typist/Steno Typists made right from the year 1981 to till publication of the list by taking into consideration of the Tamil Nadu Public Service Commission 1983/85 appointees. Tamil Nadu Public Service Commission 1986 batch appointees, compassionate ground appointees and appointment made under Rule 10(1)(i) and absorbed as per the Special Absorption Rules, 1987. The petitioner is a 1986 batch Tamil Nadu Public Service Commission appointee and her seniority has been fixed legitimately and not omitted and not placed below that of 10(a)(i)



WEB COPY



WP.No.7092 of 2023

appointees as well as compassionate ground appointees.

It is further submitted that no appointment of Junior Assistants/Typist/Steno Typists under Rule 10(a)(i) was made beyond the year 1986 and compassionate rounds appointees are placed in the seniority list at the appropriate place only and not erroneously as contended by the petitioner.

18. With reference to the avements made in paragraph 6 of the affidavit, it is submitted that the contention of the petitioner is not at all true. Due to the reason that while fixing inter-se seniority, the Tamil Nadu Public Service Commission 1986 batch appointees were also considered, the 10(a)(i) appointees, who had possessed requisite qualification were considered, at the appropriate place only and now wrongly as contended by the petitioner.

19. With reference to the averments made in paragraph 7 of the affidavit, it is submitted that the petitioner's representation dated 12.9.2012 requesting for refixation of seniority was considered by the Director General of Police along with the representations of some other Tamil Nadu Public Service Commission candidates of Police Department, seeking same kind of revision of seniority. Based on their representations, a detailed proposal was sent to Government vide Director General of Police office letter Rc.No.151912/NGB.VI(I)/2012 dated 08.11.2012. The Government in their letter has stated that since the Director General of Police is the competent authority for the post of Superintendent, it has been directed to dispose of the petition by the Head of the Department itself by issuing endorsement to all the petitioners. Accordingly all the petitioners were issued with an endorsement vide Director General of Police office on 16.9.2012. The petitioner Tmt.B.T. Vaidhegi was also issued with the endorsement vide



WEB COPY



WP.No.7092 of 2023

endorsement dated 16.9.2012. As per Rule 35(f) of the Tamil Nadu State and Subordinate Services Rules (now Section 40(6) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016), any application for revision of seniority should be submitted within three years from the date fixing the seniority. Accordingly, the applicants except Tmt.B.T.Vaidhegi whose seniority has been revised during 2010, should have submitted their applications/representations for such revision of seniority within three years from the date of fixing the seniority. But they have submitted their applications belatedly after a lapse of 15 and 12 years. As per Rule 35(f) of the Tamil Nadu State and Subordinate Services Rules (now Section 40(6) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016), the request of the applicants except Tmt.B.T.Vaidhegi are not feasible of compliance."

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned orders.

6. In the instant case, the petitioner came to be appointed on 18.2.1987. As per G.O.Ms.No.548 dated 19.6.1987, the seniority of the candidates appointed under Rule 10(a)(i) of the said Rules was fixed below the candidates of the TNPSC selected in the 1983 batch. The seniority of candidates allotted through the TNPSC selected in the 1986 batch, who joined between 28.1.1987 and 17.2.1987, were



WP.No.7092 of 2023

placed below the candidates appointed under Rule 10(1)(i) of the said Rules as per the rank obtained the candidates by the TNPSC in the 1986 batch and mentioned in the approved list received from the TNPSC. The candidates, who were appointed by the TNPSC subsequent to the petitioner in the years 1987 and 1988 were placed above the name of the petitioner for the reason that the Notification was of the year 1983 and the compassionate appointments over this period i.e from 1983 to 1987 were also placed at the appropriate place in the seniority list.

7. The petitioner requested for re-fixation of the seniority in the year 2012 and the proposal was sent to the Government, which, in turn, stated that the Director General of Police concerned is competent to take a decision. Accordingly, the Director General of Police concerned issued an endorsement on 16.9.2012. As per Rule 35(f) of the Tamil Nadu State and Subordinate Services Rules (now Section 40(6) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016), any application for revision of seniority should be submitted within three years from the date of fixing the seniority, However, the application has been submitted with a very long delay and therefore, the request of the petitioner was not accepted by the Government and it was ultimately rejected.



WP.No.7092 of 2023

8. Apart from the above, the Government has also given the following reasons for rejecting the claim made by the petitioner :

"The Government have carefully examined the representation of Tmt.B.T.Vaidhegi, Superintendent, Office of the Commissioner of Police, Greater Chennai Police, Chennai along with connected records in the light of the orders of the Hon'ble High Court of Madras in W.P. No.22244 of 2016. In Government Letter No.73950/B1/2002-1, Personnel and Administrative Reforms (B) Department dated 22.8.2003, necessary clarification have been issued for fixing of seniority for Steno-Typist, Grade III appointed by Tamil Nadu Public Service Commission by recruitment and of appointment by department/district transfer period after 01.8.1992. Further, modifying the above necessary instructions/clarification have also been issue for the same vide Government Letter No.60014/B/2007-3, Personnel and Administrative Reforms (B) Department dated 25.3.2008 and in the Government Letter No.1386/B1/2016-1, Personnel and Administrative Reforms (B) Department, dated 28.1.2016, the same has been reiterated. Also, the order of the High Court of Madras in W.A.Nos.2237 & 2238 of 2011 dated 12.6.2013 is contrary to the Special Rules 5-C and 9(f) of the Tamil Nadu Ministerial Service. The post of Steno-Typist Grade III considered for appointment by transfer to the post of Assistant with effect from 21.2.2001 in the 5% of the estimated vacancies in the category of Assistant and the 8 years service qualification was reduced to 5 years with effect from 02.9.2005. Hence, the Steno-Typist Grade III post is considered for appointment as Assistant by transfer by exercising option or for promotion as Steno-Typist Grade II in the Stenos line. Steno-Typist Grade III is not the



WEB COPY



WP.No.7092 of 2023

feeder category for the post of Superintendent. In view of the above, the request of the individual is contrary to the Special Rules to Tamil Nadu Ministerial Service and instructions. Further, as the seniority of the petitioner Tmt.B.T.Vaidhegi has been fixed as per the Special Rules, there is no valid grounds to revise her seniority once again. The Government have, therefore, decided to reject the representation of Tmt.B.T.Vaidhegi, Superintendent, Office of the Commissioner of Police Greater Chennai Police, Chennai. Accordingly, the Government order that the representation of Tmt.B.T. Vaidhegi, Superintendent, Office of the Commissioner of Police, Greater Chennai Police, Chennai requesting to revise her seniority be rejected as devoid of merits."

9. In view of the above, this Court does not find any illegality in the impugned proceedings that have been put to challenge in this writ petition. Accordingly, this Court does not find any merits in this writ petition.

10. In the result, the writ petition is dismissed. No costs. Consequently, the connected WMP is also dismissed.

26.9.2024

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WEB COPY



WP.No.7092 of 2023

N.ANAND VENKATESH,J

RS

To

- 1.The State of Tamil Nadu, rep.
by its Principal Secretary,
Home (Police V) Department,
Fort St.George, Chennai-9.
- 2.The Additional Chief Secretary
to Government, Home (Police V)
Department, Fort St.George,
Chennai-9.
- 3.The Director General of Police,
O/o the Director General of
Police, Chennai-4.
- 4.The Secretary, Tamil Nadu
Public Service Commission,
Frazer Bridge Road, Chennai-3.

WP.No.7092 of 2023&
WMP.No.7167 of 2023

26.9.2024