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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-02-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

**WP No.24578 of 2023
And
WMP No.24001 of 2023**

R.Rajaguru

.. Petitioner

-VS-

1.The Registrar General,
High Court,
Madras.

2.The Principal District Judge,
Principal District Court,
Ariyalur.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus, calling for



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records of the respondent in his proceedings No. Nil dated 21.09.2022 and quash the same and consequently direct the respondent to re-fix the seniority of the petitioner among other candidates based on the marks obtained by him in the selection process for the post of Office Assistant in light of the Judgment passed by this Hon'ble Court in batch of Writ Appeal No. 2610 of 2019 and Writ Petition No. 998 of 2017.

For Petitioner : Mr.N.Balamuralikrishnan

For Respondents : Mr.E.K.Kumaresan

ORDER

[ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The present writ petition has been filed challenging the rejection order passed by the learned Principal District Judge, Ariyalur in proceedings dated 21.09.2022.



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2. The petitioner was appointed as Office Assistant on 17.04.2018. Pursuant to the examination conducted on 17.04.2018 and based on selection, a list was published by the Authorities Competent. As per the merit selection list, the petitioner secured 23.5 marks.

3. The grievance of the petitioner is that the candidates, who scored lesser marks were placed above the name of the petitioner in the seniority list based on the roster point followed. The erroneous fixation would result in denial of further opportunity and prospects of the petitioner.

4. The roster point adopted for fixation of seniority and the merit list followed for seniority were elaborately considered by the Division Bench of this Court in WP No.998 of 2017 and WA No.2610 of 2019 etc., batch dated 15.11.2019. The said judgment of the Division Bench of this Court was confirmed by the Hon'ble Supreme Court of India. Thus the issues are settled and no more *res integra*. The Division Bench of this Court, in the judgment cited supra, has made an observation in paragraph-



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37.19, which reads as under:-

"37.19. The other contention is that the present procedure has been followed from 2003 onwards. Thus, the understanding of an Executive Authority in adopting the particular procedure on an interpretation of the provision will have to be allowed to be continued. This contention also deserves to be rejected as illegality cannot be justified on the ground of being followed for more number of years. It is nothing but a perpetuation of a wrong."

4. The conclusion portion in Paragraph-38 of the Division Bench judgment, reads as under:-

"38. CONCLUSION:-

In the light of the discussion and the findings hereinabove, the following conclusion is arrived at.

(i) Sections 1(2), 40 and 70 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, are declared as ultra vires and unconstitutional;

(ii) The respondents are directed to redo the exercise of fixation of seniority within a period of 12 weeks from the date of receipt of a copy of this order;



(iii) Delay, laches, acquiescence and accrued right are the factors to be considered by the Court when similar reliefs are sought for in future;

(iv) W.P.Nos.1147, 5735, 22852, 34311, 34312 of 2017, 7511, 8718 to 8720, 18725, 26442 and 31156 of 2018 are allowed;

(v) W.A.No.2610 of 2019 is also allowed;

(vi) W.P.Nos.998 of 2017 and 10021 of 2018 stands disposed of with a direction that the petitioners are entitled to the benefit conferred under the order of the Division Bench in Santhosh Kumar's case;

(vii) W.P.No.6649 of 2017 stands allowed with respect to the consequential relief sought for;

(viii) Consequently, the respondents are directed to refix the seniority within a period of twelve weeks from the date of receipt of a copy of this order; and

(ix) W.P.Nos.11150, 11151 and 22136 of 2018 are dismissed. No costs. Consequently, all connected miscellaneous petitions stand closed."

5. In view of the above conclusion arrived by the Division Bench of this Court, the case of the writ petitioner is directed to be



considered and seniority of the petitioner along with the candidates selected with him in the year 2018, is directed to be revised in the same line as directed by the Division Bench of this Court in the judgment, cited supra.

The abovesaid exercise is directed to be completed within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above directions, the present writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

15-02-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

1. The Registrar General,
High Court,
Madras.

2. The Principal District Judge,
Principal District Court,
Ariyalur.

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S.M.SUBRAMANIAM, J.
AND
K.RAJASEKAR, J.

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