



W.P.No.27575 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.27575 of 2021

P.Radhakrishnan

...

Petitioner

/vs/

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

2. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the first respondent to revise the date of allotment of the petitioner based on the TNPSC examination held on 17.02.2008 as 28.05.2009 instead of 01.04.2010 and consequently direct the second respondent to revise the seniority of the petitioner in the post of Junior Assistant with effect from 28.05.2009 instead of 19.04.2010 along with all other consequential benefits like seniority, arrears of pay and other allowances etc.



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For Petitioner ... Ms.T.Hemalatha

For Respondents ... Mr.R.Bharanidharan for R1

Mr.S.Arumugam
Government Advocate for R2

ORDER

Heard Ms.T.Hemalatha, the learned counsel for the petitioner, Mr.R.Bharanidharan, the learned counsel for R1 and Mr.S.Arumugam, the learned counsel for R2.

2. The petitioner has filed this writ petition seeking a writ of mandamus to direct the first respondent to revise his date of allotment based on the Tamil Nadu Public Service Commission (TNPSC) examination held on 17.02.2008 as 28.05.2009 instead of 01.04.2010 and to further direct the second respondent to revise the seniority of the petitioner in the post of “Junior Assistant” with effect from 28.05.2009 instead of 19.04.2010 along with all other consequential benefits like seniority, arrears of pay and other allowances etc.



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3. Ms.T.Hemalatha, the learned counsel for the petitioner, submitted that despite the petitioner was recruited in the recruitment took place in the year 2008, the appointment order was issued to him only in the year 2010; however his batch-mates got the appointment order on 28.05.2009; hence there was a delay in declaring his probation and thereafter to include him in the promotion panel for the post of “Assistant”; the petitioner claims that his seniority has to be taken with effect from 28.05.2009 on which date appointment orders have been given to his batch mates.

4. From the submissions of Mr.R.Bharanidharan, the learned counsel for R1 and Mr.S.Arumugam, the learned counsel for R2, it is learnt that the petitioner has claimed that he belonged to Scheduled Tribe Community and he has also produced the certificate. The certificate has been sent for certificate verification to Tamil Nadu State Level Scrutiny Committee (SLSC), Adi Dravidar and Tribal Welfare Department. After getting confirmation about the genuineness of the certificate, appointment order has been given to the petitioner and thereafter joined on 19.04.2010.



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5. The petitioner can claim seniority only after he assumes duty.

Even before joining service, the petitioner cannot claim any seniority or claim any relief as though he had joined duty on 22.05.2009 itself. Further, the petitioner was keeping quiet for nearly 10 long years and had filed this writ petition without explaining any reason for the *delay and latches*. The petitioner who accepted the seniority list and the subsequent promotion cannot agitate on imaginary grounds at a posterior point after 10 years.

6. The petitioner has filed an earlier writ petition in W.P.No.11921/2021 seeking direction to consider his promotion. In the said writ petition the following order has been passed:

“ 4. Those emoluments cannot be withheld by an administrative order. Therefore, the respondents may re-examine that particular aspect. It would have been better had the promotion been granted thereby complying the orders of this Court and leaving it open to the petitioners and respondents in W.P.No.11921 of 2021 etc., to agitate all the issues before the appropriate Court and therefore, the promotion could have been granted subject to the orders that would be passed in the writ petitions or in the appeals that would arise out of the orders passed in the writ petitions and without restricting promotional benefits and



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emoluments.”

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7. The petitioner's writ petition itself is not maintainable in view of the reason that he claims seniority with effect from the date on which he has not even joined service. Unless the petitioner's certificates are proved, the appointment orders cannot be released. Even if there is a delay in releasing the appointment order for the petitioner, it cannot be viewed as a wanton delay but only by observing the due procedure.

8. In the result, this writ petition is dismissed. No costs.

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Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation Case: Yes / No
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