WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.P.No.35428 of 2024

K.Balasubramaniyan .. Petitioner

Vs.

1. The Registrar General
   High Court of Madras
   Chennai.

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

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for the records pertaining to the impugned officer memorandum dated 12.06.2024 issued by the second respondent for re-fixation of seniority without testifying the seniority panel of the second respondent vide proceedings in A.No.70/2018 dated 28.04.2018 under judicial scrutiny, and the consequential seniority list drawn by the second respondent vide proceedings in A.No.70/2024 dated 02.07.2024 quash the same and consequently direct the second respondent to consider the reply dated 19.06.2024 given by the petitioner.

https://www.mhc.tn.gov.in/judis

WEB COPY

For the Petitioner : Mr.M.Jothi Kumar

For the Respondents : Ms.B.Poongkhulali

ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

The prayer sought in the present writ petition is for a writ of certiorarified mandamus, calling for the records pertaining to the impugned office memorandum dated 12.06.2024 issued by the second respondent for re-fixation of seniority without testifying the seniority panel of the second respondent vide proceedings in A.No.70/2018 dated 28.04.2018 under judicial scrutiny, and the consequential seniority list drawn by the second respondent vide proceedings in A.No.70/2024 dated 02.07.2024 and quash the same and consequently direct the second respondent to consider the reply dated 19.06.2024 given by the petitioner.

2.1. The petitioner was one of the successful candidates who were selected for the post of "Office Assistants" at Ariyalur District Judiciary after competitive selection process. The petitioner had been working in that capacity, where his seniority has been shown at Si.No.24 based on the communal roster. Accordingly, it is claimed by the petitioner that further promotion to the post of "Junior Bailiff" also has been granted in the year 2022.

https://www.mhc.tn.gov.in/judis

WEB COPY

2.2. When that being so, a communication has been issued by the second respondent Principal District Judge on 12.06.2024, where, replies/comments of the 37 employees, like the petitioner, have been sought as the seniority of the Office Assistants selected in the year 2018 have to be redrawn on the basis of the directions issued by this Court in a Division Bench Judgment dated 15.02.2024 in the matter of ***R.Rajaguru vs. The Registrar General***[1]. Pursuant to the said communication dated 12.06.2024, objections seem to have been given by various individuals including the petitioner.

2.3. Further, subsequently, the second respondent Principal District Judge issued proceedings in A.No.70/2024 on 02.07.2024, issuing revised seniority list based on merits. Challenging the said proceedings, the petitioner has moved the present writ petition with the aforesaid prayer.

3.1. *Mr.M.Jothi Kumar*, learned counsel for the petitioner would submit that pursuant to the selection process carried on the year 2018, the petitioner, along with others, have been selected

1 *W.P.No.24578 of 2023*

https://www.mhc.tn.gov.in/judis

WEB COPY

and were appointed as Office Assistants by the proceedings issued by the second respondent dated 24.04.2018. At that time, the seniority of the petitioner was fixed at Si.No.24 based on communal roster. That was the system prevailing back then. Based on such seniority, in the year 2022, the petitioner was also promoted to the post of "Junior Bailiff".

3.2. When that being so, if at all seniority is to be redrawn pursuant to the law having been settled by this Court, as well as the directions issued by the Division Bench of this Court on 15.02.2024 as relied *supra*, the same has to be made only prospectively, that is only from 15.02.2024 and thereafter alone. Insofar as the seniority that has already been fixed and promotion already earned by the petitioner, the same cannot be disturbed he contended.

4.1. We have heard *Ms.B.Poongkhulali*, learned counsel for the respondents, who would submit that the method of fixing seniority amongst the selected candidates originally was made based on the communal roster, but that system has been done away by virtue of the judgment of the Division Bench dated 15.11.2019 made in W.A.No.998 of 2017 and W.A.No.2610 of 2019. Thereafter, the law, having been settled, where the seniority

https://www.mhc.tn.gov.in/judis

WEB COPY

should be drawn only based on merits and not based on communal roster and that judgment since also has been upheld by the Hon'ble Supreme Court, the law is well settled in this regard and therefore, following the said law, such directions have been issued by the Division Bench by its order dated 15.02.2024 by issuing a mandamus to redraw the seniority based on merits, which also have been complied with, that too after giving opportunities to all the employees like the petitioner.

4.2. Therefore, such order, since has now been passed refixing the seniority based on order dated 15.02.2024, cannot be found fault with. Hence, learned counsel for the respondents seeks dismissal of the writ petition.

5. We have considered the said rival submissions made by learned counsel appearing for the respective parties and have perused the materials placed before this Court.

6.1. The petitioner is under total misconception to state that if at all seniority is to be redrawn based on merits, that shall be done only prospectively, that too after directions issued by way of a mandamus by this Court on 15.02.2024. Unmindful of whether such

https://www.mhc.tn.gov.in/judis

WEB COPY

directions have been issued or not, once the law having been settled by the order passed by this Court earlier on 15.11.2019, which was subsequently upheld by the Hon'ble Supreme Court, the seniority drawn already among the employees like the petitioner based on communal roster ought to have been rearranged and redrawn.

6.2. The inaction on the part of the respondents cannot be taken advantage by the employees like the petitioner and state that in the meanwhile he was earlier further promoted to the post of Junior Baillif in the year 2022. If at all such promotion had been given, without redrawing seniority based on merits, such promotion would not *ipso facto* confer any right upon the employees like the petitioner. Therefore, such promotions, wrongly earned by the petitioner based on seniority without reaching the zone of consideration, are to be redrawn on the basis of merits.

6.3. More so, the learned Principal District Judge, who is the second respondent, has only acted upon by complying the order passed by this Court dated 15.02.2024, where a mandamus has been issued. The said order dated 15.02.2024 has not been questioned by the petitioner or anyone. When that being so, even

https://www.mhc.tn.gov.in/judis

WEB COPY

on that ground also, the compliance order made by the second respondent cannot be found fault with.

6.4. Originally, under the seniority list based on the communal roster, the petitioner was placed on Si.No.24, but now, he has been placed at Si.No.45. Therefore, the order dated 02.07.2024, drawing the seniority list on the basis of the merits, is of course in tandem with the settled legal position as has been discussed above.

7.1. Therefore, for all these reasons, there is absolutely no merits in the contentions of the petitioner, as the challenge that has been made in this writ petition has to fail, accordingly, this writ petition fails and hence, it is liable to be dismissed.

7.2. It is made clear that based on the seniority list, which is impugned herein, consequential service benefits shall be conferred upon the employees strictly on the basis of seniority, especially in the case of promotion.

7.3. It is also made clear that in the meanwhile, if any promotion has been wrongly given to anyone, including the writ petitioner, unmindful of the seniority as has been now revised

https://www.mhc.tn.gov.in/judis

WEB COPY

through the order dated 02.07.2024, such promotion could be canceled and the employees concerned shall be reverted.

8. With these observations and directions, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, W.M.P.Nos.38309 and 38312 of 2024 are closed.

(R.S.K., J.) (C.S.N, J)
28.11.2024

Neutral Citation:Yes/No

drm

WEB COPY

To:

1. The Registrar General
   High Court of Madras
   Chennai.

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

WEB COPY

R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.

(drm)

W.P.No.35428 of 2024

28.11.2024