



W.P(MD)No.3509 of 2021

WEB CO **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 12.04.2024

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THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.3509 of 2021

and

W.M.P.(MD)Nos.2841 and 2843 of 2021

M.Velusamy

... Petitioner

Vs.

- 1.The Executive Officer,
Arulmighu Dhandayuthapani Swamy Temple,
Palani, Dindigul District.
- 2.M.Indumathi,
Junior Assistant,
Arulmighu Dhandayuthapani Swamy Temple,
Palani, Dindigul District.
- 3.P.Marimuthu,
Assistant,
Arulmighu Dhandayuthapani Swamy Temple,
Palani, Dindigul District.
- 4.C.Pasupathi,
Assistant,
Arulmighu Dhandayuthapani Swamy Temple,
Palani, Dindigul District.



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5.L.Murugavel,
Assistant,
Arulmighu Dhandayuthapani Swamy Temple,
Palani, Dindigul District.

6.C.Lakshmi Narayanan,
Assistant,
Arulmighu Dhandayuthapani Swamy Temple,
Palani, Dindigul District.

7.S.Pandiarajan,
Junior Assistant,
Arulmighu Dhandayuthapani Swamy Temple,
Palani, Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned seniority list vide Na.Ka.No. 977/2020/A1 dated 16.12.2020 issued by the 1st respondent herein and impugned order of rejection issued by the 1st respondent in Na.Ka.No. 977/2020/A1 dated 26.01.2021 as illegal and quash the same and consequently direct the 1st respondent herein to rectify seniority of petitioner by following Rule 35(c) of Tamil Nadu State and Subordinate Services and to re-draw the seniority list fresh.

For Petitioner : Mr.R.Rajeshkumar
For Mr.S.Manikandan
For 1st Respondent : Mr.R.Murali
For Respondents 2 to 7 : No Appearance



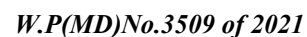
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ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned result of the petitioner which was published through the official website by the second respondent for the examination held for the post of Village Administrative Officer (2014-2015) in respect of the petitioner alone and to direct the respondent herein to keep one post vacant for post of Village Administrative Officer, if the respondent call for the said post in future.

2.The petitioner was appointed to the post of Office Assistant with effect from 01.01.2009 in the first respondent office. Later he was promoted to the post of Record Clerk on 01.11.2012. Pursuant to the audit objection and report dated 07.02.2013, in which, the allegations as to the corrections in the entries found in the ledgers, the petitioner was placed under suspension temporarily and thereafter, a departmental enquiry was conducted and vide proceedings dated 13.05.2013, he was imposed with a punishment of reduction in rank i.e., demoting him from the post of Record Clerk to the post of Office Assistant. After reversion,



3.The learned counsel appearing for the petitioner submitted that



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despite the petitioner's name having been accommodated in Serial No.17 in the seniority panel prepared in June 2014 leaving him, eight of his Juniors were promoted to the post of Record Clerk. In spite of his diligent efforts by bringing the said anomaly to the first respondent and in spite of his request seeking refixation of seniority, the impugned order rejecting his request came to be passed by the first respondent. The same is arbitrary and illegal. He further submitted that once an order of reversion is effected, the employee shall be placed in the top of reverted post in seniority unless the disciplinary authority fixes the seniority specially in the reverted post. Having not done so, the petitioner's seniority has not been refixed by the first respondent. He pressed for allowing the Writ Petition.

4.Per contra the first respondent has filed a counter and the learned counsel appearing for the first respondent submitted that the petitioner was appointed at the first instance as Office Assistant on 01.01.2009 and thereafter, he was promoted to the post of Record Clerk on 01.11.2012. In view of enquiry conducted by the department, he was reverted back and demoted to the post of Office Assistant on 13.05.2013. In the



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meanwhile, the respondents 2 to 7 were promoted to the post of Record Clerk from the post of Office Assistant during January 2015 and the petitioner was further promoted as Record Clerk from the post of Office Assistant after suffering demotion on 25.11.2015. In the meanwhile, the respondents 2 to 7 who were promoted as Record Clerks were further promoted as Junior Assistants on 29.10.2015 and they were further promoted as Assistants on 21.07.2017. The petitioner was also promoted to the post of Junior Assistant on 21.07.2017. Having opted not to challenge his demotion on 13.05.2013 and promotion of the respondents 2 to 7 effected on 28.01.2015, now the petitioner has no *locus standi* to seek re-fixation of seniority. On that basis, he pressed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and carefully perused the entire materials available on record.

6. This Court is of the considered view that the petitioner ought to



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have challenged his demotion or atleast promotion to the respondents 2 to 7 immediately on 28.01.2015, when they were promoted to the post of Record Clerk. Having slept over his rights for six years, now the petitioner cannot seek refixation of seniority. Only because of the demotion suffered by the petitioner, he was not promoted in line with the promotion given to the respondents 2 to 7. Hence, I am not inclined to interfere in the order passed by the first respondent.

7. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

12.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Mrn

L.VICTORIA GOWRI, J.



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Mrn

Order made in
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