



WP(MD) No.4665 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.4665 of 2024

and

W.M.P.(MD)Nos.4494 & 4495 of 2024

S.Rajavel

... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
Department of Commercial Taxes,
Chepauk, Chennai – 600 005.

2.The Joint Commissioner (Admin),
O/o. The Commissioner of Commercial Taxes,
Department of Commercial Taxes,
Chepauk, Chennai – 600 005.

3.The Joint Commissioner (State Tax),
O/o. The Joint Commissioner,
Department of Commercial Taxes,
Virudhunagar Division,
Virudhunagar.

4.S.Keerthanan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order vide Na.Ka.No. A1/34/2023



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dated 19.12.2023 passed by the 3rd respondent and consequential impugned order vide Proc.No. H3/6422693/2024 dated 21.02.2024 passed by the 2nd respondent and quash the same and consequently direct the respondents 1 to 3 to issue seniority list among the Junior Assistants working in Virudhunagar Division and to take appropriate steps to fill up the post of Assistants by promotion in accordance with law.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.J.K.Jeyaseelan (R1 to R3)
Additional Government Pleader
Mr.A.Srinivasan (R4)

ORDER

The petitioner has filed this writ petition challenging the impugned order dated 19.12.2023 issued by the third respondent containing the list of 13 names for one way transfer to Virudhunagar Division, and the impugned order dated 21.02.2024 issued by the second respondent transferring the fourth respondent to Virudhunagar Division.

2. Heard the learned counsel appearing on either side.



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3. The grievance of the petitioner is that the petitioner has been working as Junior Assistant in Virudhungan District in Tirunelveli Division and his next level promotional post of Assistant will be affected for want of vacancy in the same division. Each division is taken as unit for fixing seniority in respect of Junior Assistants and Assistants. Seniority of the Junior Assistants was revised and the seniority list was issued by the third respondent herein.

4. Thereafter, Tirunelveli Division was bifurcated into Virudhunagar Division and Tirunelveli Division on 21.07.2023. The petitioner has been continuously working in the same place in Virudhunagar. After Virudhunagar District was bifurcated from Tirunelveli Division, 13 posts of Assistants fell vacant and they are due for promotion. The petitioner and other similarly placed persons are eligible to the promotional post of Assistant. But, the vacancies of the Assistant post in Virudhunagar Division are filled up with the persons, who are holding the post of Assistants working in other division. Therefore, the petitioner challenged the impugned orders.



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5. The learned Additional Government Pleader appearing for the respondents submitted that Virudhunagar Division has been formed on 21.07.2023. In such circumstances, willingness from the persons who would like to get transferred to Virudhunagar District by foregoing their seniority has been notified and only consequent to that, list has been prepared. As on today, there is no promotional panel to the post of Assistants from Junior Assistants prepared. The apprehension of the petitioner is unnecessary as to why the persons holding the post of Junior Assistants would get promotion to the next level promoted post of Assistants.

6. The learned counsel appearing for the petitioner has stated that the promotion to the post of Assistants from Feeder Cadre should be filled up and for that, certain vacancies should be reserved. In other words, the persons who are already in the feeder cadre should be promoted to the post of Assistants. He also claims that the promotion to the post of Assistants should be made only from the feeder cadre and they have to be accommodated in the same Division.



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7. To be noted, prior to formation of Virudhunagar Division, the petitioner was not working in Virudhunagar Division, even though he was posted in Virudhunagar District. Virudhunagar District has attained the status of Division only on 21.07.2023. Even though the petitioner is posted in Virudhunagar, he fell in Tiruenveli Division only. After new Division was formed, the petitioner is also new as that of other persons who opted to come to Virudhunagar Division. Therefore, the petitioner cannot claim that he should be placed in Virudhunagar Division, after the persons, who get transferred to Virudhunagar District.

8. The petitioner's promotion might or might not be effected pursuant to the Government's decision to make one way transfer of all those employees, who are willing to come to Virudhunagar Division. The petitioner cannot assume too much right upon himself to control the Government's policy by claiming any priority in Virudhunagar and that too for a promotional post of an uncertain time.

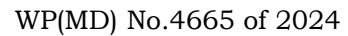


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9. Whenever a new division is formed due to bifurcation, the employees of the unbifurcated division shall have the right to move to the bifurcated division, but it is only one way transfer. The employees moved to the bifurcated division shall have a better seniority in their respective cadre in view of the new division and the less number of staff in each cadre.

10. Just because a person is placed in any one place of an unbifurcated division happens to be the headquarters for the new division, the persons who are already posted cannot claim any ownership to the said place in the name of priority. Only after accommodating all those who have given their willingness to come to a new district, the promotion if any will be given depending upon the vacancy and the demand. The above administrative place which is in vogue from the very inception of the administrative functions, it cannot be found fault by the petitioner for his self-serving narrow minded reasons. Like anyone in the new division, the petitioner shall join in a place anywhere in the division and as assigned to him at the time of promotional exercise, depending upon the vacancy position of that time.



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R.N.MANJULA, J.

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