



W.P.(MD).No.12003 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.12003 of 2024

S.Velumani

... Petitioner

Vs.

The District Collector,
Thoothukudi District,
Thoothukudi.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to implement the order of this Court in W.A.(MD).No.404 of 2011 dated 23.02.2022 thereby affirming the order of the learned Single Judge in W.P.(MD).No.3695 of 2005 dated 27.01.2011 on the basis of the petitioner's representation dated 12.03.2024 and 23.05.2024.

For Petitioner : Mr.C.M.Mari Chelliah Prabhu

For Respondent : Mr.M.Ramesh
Government Advocate



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ORDER

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Heard Mr.C.M.Mari Chelliah Prabhu, learned counsel appearing for the petitioner and Mr.M.Ramesh, learned Government Advocate appearing for the respondent.

2. The petitioner has filed this petition for issuance of Writ of Mandamus, seeking direction against the respondent to implement the order of this Court in W.A.(MD).No.404 of 2011 dated 23.02.2022, thereby affirming the order of the learned Single Judge in W.P.(MD).No.3695 of 2005 dated 27.01.2011, on the basis of the petitioner's representation dated 12.03.2024 and 23.05.2024.

3. Earlier, the petitioner has filed Writ Petition in W.P.(MD).No. 3695 of 2005 for refixing the seniority and this Court vide order dated 27.01.2011 made the following observations:

“18. Be that as it may, on a careful consideration of respective contentions and in view of the detailed, quantitative and qualitative discussions mentioned supra and taking note of the facts and circumstances of the present case, this Court comes to an inevitable conclusion that when admittedly, the petitioner's seniority list in respect of the year 1999 pertaining to Junior Assistant Post



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has since been corrected by the First Respondent/District Collector, Tuticorin, as per his proceedings dated 20.1.2000 and also shown as 107(a) (corrected position) then, the petitioner is rightly to be placed above the individual respondent Nos. 2 to 28 shown in the Writ Petition, as opined by this Court. As such, his seniority is to be fixed correctly by the First Respondent/ District Collector and in this regard, the impugned order of the First Respondent/District Collector dated 29.12.2005 rejecting the petitioner's request/prayer to fix the seniority by placing his name after the individual respondent Nos. 2 to 28 is not a correct and legally valid one in law and therefore, this Court is constrained to interfere in writ jurisdiction and accordingly, sets aside the said order by allowing the present Writ Petition to prevent the aberration of justice.

19. In the result, this Writ Petition is allowed leaving the parties to bear their own costs. The First Respondent/ District Collector, Tuticorin, is directed to fix the petitioner's correct seniority by placing him above the individual respondent Nos. 2 to 28 and to draw a fresh list of Junior Assistant post seniority in respect of the year 1999 and to provide him with all necessary monetary benefits and all other service and attendant benefits thereto within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, connected M.Ps are closed.”



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4. As against the same, the respondent preferred Writ Appeal in W.A.(MD).No.404 of 2011 and the Hon'ble Division Bench vide order dated 23.02.2022 dismissed the Writ Appeal, thereby confirming the order passed in the aforesaid Writ Petition.

5. Since the order of this Court has not been complied with, the petitioner sent a representation to the respondent to implement the order of this Court.

6. In such case, the petitioner is at liberty to file a Contempt Petition within a period of two weeks from the date of receipt of a copy of this order and the petitioner cannot re-agitate the same issue which had already been settled.

6. This Writ Petition is **disposed of** accordingly. No costs.

10.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:
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The District Collector,
Thoothukudi District,
Thoothukudi.



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R.N.MANJULA, J.

Nsr

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