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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.13013 of 2023

and

W.M.P(MD)No.22546 of 2023

M.Mahalingam

... Petitioner

Vs

1.The Principal Secretary,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai.

2.The Commissioner,
Rural Development and Panchayat Raj Department,
Panagal Building,
Saidapet, Chennai.

3.The District Collector,
Trichy District.

4.The Personal Assistant to the District Collector(Development),
Trichy District.

5.The Block Development Officer,
Thiruverumbur Panchayat Union,
Trichy District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, calling for the records pertain to the impugned order passed by the 4th respondent in Se.Mu.No.7800/2021/Tha4, dated 01.02.2023 and quash the same and consequently directing the respondents to



fix the petitioner's seniority in the feeder category combined seniority list (Night Watchman, Office Assistant, Record Clerk) at Seniority No.80 and based on the same give notional promotion in the post of Junior Assistant as per G.O.Ms.No.745, dated 18.07.1980 and re-fix the pay scale and pensionary benefits and pass such further or other orders as this Court.

For Petitioner : M/s.G.R.Satish

For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The instant writ petition has been filed by a retired Record Clerk who was working in the fifth respondent office, challenging the order passed by the fourth respondent herein on 01.02.2023 rejecting the request of the writ petitioner to fix the seniority in the feeder category combined seniority list at Seniority No.80 and based upon the same give notional promotion in the post of Junior Assistant as per G.O.Ms.No.745, dated 18.07.1980.

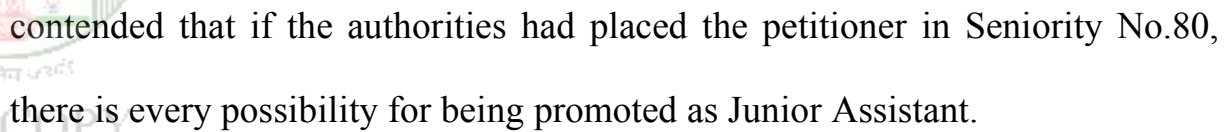
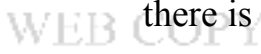
2.It could be seen from the records that the petitioner was originally appointed as Night Watchman on 12.01.1981. The petitioner was redesignated as Office Assistant in the year 1982. The petitioner was again redesignated as Record Clerk in the year 1991 and till his retirement, the petitioner was holding the post of Record Clerk. The petitioner had attained superannuation on



31.03.2010. The post of Night Watchman, Office Assistant and Record Clerk belong to the same cadre. These facts are not in dispute.

3.The petitioner herein after attaining superannuation, has sent several representations to the authorities contending that his seniority has erroneously been fixed at Seniority No.114 instead of Seniority No.80. In case, if he is placed under Seniority No.80, he would get notional promotional to the post of Junior Assistant. Under the impugned order passed by the fourth respondent herein, it has been specifically pointed out that the petitioner has not passed SSLC examination which is a mandatory requirement for being promoted as Junior Assistant. Further, it has been pointed out that none of his juniors were promoted while the petitioner was in service. This order is put to challenge in the present writ petition.

4.According to the learned Counsel appearing for the writ petitioner, as per G.O.Ms.No.745, dated 18.07.1980 it is enough that a candidate had appeared for the SSLC examination and it is not mandatory to pass the SSLC examination for being promoted as Junior Assistant. He further contended that the seniority list has been published only in the year 2009 and therefore, he did not have any opportunity to challenge the same before his retirement. He further



6. I have carefully considered the submission made on either side and perused the materials available on record.

<https://www.mhc.tn.gov.in/judis>
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8.The question of granting notional promotion would arise, only if the name of the petitioner was considered and his name was overlooked at any point of time due to pendency of disciplinary proceedings or other defects. In the present case, the petitioner has not reached the zone of consideration till the date of his retirement, the question of granting notional promotion at this length of time does not arise.

9.Therefore, there are no merits in the writ petition. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

06.11.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR



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R.VIJAYAKUMAR, J.

RJR

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