BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2024

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THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.13837 of 2024
and
W.M.P.(MD)No.12169 of 2024

P.Ramamuthu ... Petitioner

Vs.

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

2.The Additional Commissioner (Admn),
(Full Incharge),
Principal Secretary / Office of Commissioner of
Commercial Tax Officer,
Chepauk, Chennai 600 005.

3.The Joint Commissioner (CT),
Madurai Division,
Madurai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to fix the seniority of the petitioner in the cadre of Assistant on the basis of seniority already fixed to the petitioner in the cadre of Junior Assistant as 1(D)/2018 by proceedings of 3rd respondent in Na.Ka.105/2016/A3 dated 13.09.2021 which was again confirmed by the 3rd respondent by his further proceedings dated 11.4.2022 by placing the petitioner below the name of K.Ganesan, Assistant and include the name of petitioner in the ensuing panel of Assistant for promotion to the post of Deputy Commercial Tax Officer.

For Petitioner : Mr.K.Appadurai
For Respondents : Mr.J.K.Jeyaseelan
Government Advocate

ORDER

This writ petition has been filed by the petitioner seeking a direction to the respondents to fix the seniority of the petitioner on the basis of seniority already fixed to the petitioner in the cadre of Junior Assistant, which was confirmed by the third respondent and include his name in the ensuing panel of Assistant for promotion to the post of Deputy Commercial Tax Officer.

2.Heard Mr.K.Appadurai, learned counsel appearing for the petitioner and Mr.J.K.Jeyaseelan, learned Government Advocate appearing for the respondents.

3.By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4.The petitioner, who was appointed as a Junior Assistant at the office of the Assistant Commissioner (CT), Tiruverumbur Circle, Trichy on 30.06.2014, has been promoted to the post of Assistant on 09.02.2019. In the meanwhile, at the request of the petitioner, the third respondent transferred the petitioner to Madurai Division and the petitioner joined duty at Madurai on 17.05.2017. Based on the said joining date, the seniority list of the petitioner was re-fixed and the petitioner was placed initially at Sl.No.25 and thereafter at Sl.No.1(D)/2018 at the transferee division.

5.While that being so, the third respondent revised the seniority list on 07.07.2023, on the basis of the merits determined and communicated by the TNPSC and the petitioner was listed at Serial No.29 after the candidates, who were recruited in the year 2015. Hence, the petitioner made a written objection to the third respondent to refix the seniority list of the petitioner. However, the third respondent without considering the written objections submitted by the petitioner, has published the inter-se seniority list in the cadre of Assistant for the year 2003-2022 on 19.01.2024, wherein the name of the petitioner did not find place. Hence, the petitioner made a representation to the third respondent to include his name in the inter-se seniority list for the year 2012-2020 in the cadre of Assistant.

6.The main contention of the petitioner is that if the petitioner is placed under Sl.No.1(D)/2018, the petitioner would have been found place in the promotional panel drawn for the next level post of Deputy Commercial Tax Officers. Hence, the petitioner has filed this writ petition seeking to revoke the seniority of the petitioner and fit him in an appropriate position in the inter-se seniority list in accordance with the Rules.

7.The learned Government Advocate for the respondents submitted that the petitioner was originally appointed as Junior Assistant at Trichy and only at his request, he was transferred to Madurai Division on 17.05.2017 and it is an one way transfer. As per the transfer condition, the petitioner will loose his seniority maintained in the parent division and would be placed in accordance with the date of his joining in the the transferee division.

Consequent to his transfer, the petitioner was placed at Sl.No.29 in the seniority list for the post of Junior Assistants in the transferee division. So, it is submitted by the learned Government Advocate that the petitioner cannot re-agitate the matter of seniority.

8.In this regard, reliance has also been placed by the learned Government Advocate on the judgment of the Hon'ble Division Bench of this Court in the case of ***Principal Secretary,Commissioner of Commercial Taxes and another vs. D.Murugesan*** in W.A.(MD)Nos.4, 22 and 615 of 2020 dated 29.04.2024, wherein this Court has held that if a person is transferred from one Division to another division, the seniority will be maintained in the transferee division in accordance with the Rules.

9.The learned counsel for the petitioner has submitted that he has got no quarrel on those points. Even according to the orders of the transferee division dated 13.09.2021, the petitioner has been placed at Sl.No.1(D)/2018 in the seniority list for the year 2018 and only thereafter, the second respondent passed the proceedings, in the year 2023 by revising the seniority list and thus the petitioner was placed at Sl.No.29. Hence, the petitioner only seeks clarification for this revised seniority list by considering the objections made by the petitioner.

10.Admittedly, the petitioner had forgone his seniority in her parent division. Hence, the petitioner was originally given with the seniority Sl.No.25 in the transferee division and he is aware of the same. In order to rectify the wrong assignment of Sl.1(D)/2018 given to the petitioner, the order dated 07.07.2023 has been passed by referring S.No.29. So it cannot be claimed that the petitioner should be included in the promotion panel for the next level post of Deputy Level Commercial Tax Officers by claiming precedence over the candidates, who are before him. It is to be noted that at any point of time, the petitioner has not chosen to challenge the earlier proceedings dated 07.07.2023, by which his seniority has been revoked and he has been once again placed at Sl.No.29. Only when the promotion panel for the next level post was prepared, the petitioner had given his objection for the revised seniority.

11.However, this writ petition is filed only because of the inaction on the part of the respondents in considering the objections made by the petitioner for the revised seniority list. Hence, there shall be a direction to the respondents to consider the objections made by the petitioner with regard to the revised seniority list on its own merits and pass appropriate orders thereon within a period of three (3) weeks from the date of receipt of a copy of this order.

12.In fine, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

27.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

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

2.The Additional Commissioner (Admn),
(Full Incharge),
Principal Secretary / Office of Commissioner of
Commercial Tax Officer,
Chepauk, Chennai 600 005.

3.The Joint Commissioner (CT),
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Madurai.

R.N.MANJULA, J.

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