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**(2011) 11 MAD CK 0029**

**Madras High Court**

**Case No:** Writ Petition No. 13713 of 2006 (O.A. No. 6202 of 2002)

P. Subbaiyan

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

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**Date of Decision:** Nov. 14, 2011

**Hon'ble Judges:** D. Hariparanthaman, J

**Bench:** Single Bench

**Advocate:** V. Subbiah, Special Government Pleader, for the Respondent

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**Judgement**

@JUDGMENTTAG-ORDER

Honourable Mr. Justice D. Hariparanthaman

1. Heard both sides.

2. The petitioner was appointed as Record Clerk in 1966. He was promoted as Assistant Librarian in 1970. Later, he was promoted as Grade - II Librarian and further promoted as Grade-I Librarian in the year 2002. He retired from service on 30.09.2002. The grievance of the petitioner is that his juniors namely Mr. K. Nagarajan, who joined service on 20.11.1973 and Mr. T. Jayabal, who joined service on 31.12.1970 subsequent to him were granted promotion as Grade-I Librarian on 08.06.1999 and 19.04.1999 retrospectively. According to the petitioner, there was no impediment for promoting him to the post of Grade-I Librarian, when his juniors were promoted. Hence, he filed Original Application in O.A.No.6202 of 2002 before the Tamil Nadu Administrative Tribunal with a prayer to direct the respondents to promote him as Grade-I Librarian and fix his seniority in the appropriate place with consequential monetary benefits.

3. The respondents filed counter affidavit refuting the allegations made by the petitioner. It is stated in the counter affidavit that the petitioner was imposed with a punishment of stoppage of increment for one year without cumulative effect, by the District Library Officer, Thanjavur, by an order dated 04.12.1997 and the same was

modified into that of stoppage of increment for six months without cumulative effect, by an dated 22.10.1998 of the second respondent. Hence, the petitioner is not entitled for promotion to the post of Grade-I Librarian from the date on which his juniors were promoted. In this regard, the respondents relied on a Government Order in G.O.Ms.No.368, Personnel and Administrative Reforms Department, dated 18.10.1993 in the counter affidavit.

4. In view of the abolition of the Tribunal, the matter stood transferred to this Court and was renumbered as W.P.No.13713 of 2006.

5. In my view, when Mr. K. Nagarajan and Mr. T. Jayabal were promoted as Grade - I Librarians on 08.06.1999 and 19.04.1999 respectively, there was no impediment for the respondents for giving promotion to the petitioner. The earlier order dated 04.12.1997 imposing punishment on the petitioner, could not be cited as the impediment, since the juniors of the petitioner were given promotion subsequent to the punishment imposed on the petitioner. It is also relevant to note that Mr. K. Nagarajan was directly promoted as Grade-I Librarian from the post of Grade-III Librarian, without being promoted as Grade-II Librarian, as per the information furnished by the Department under the RTI Act to the petitioner.

6. In these circumstances, the petitioner is entitled to get promotion as Grade-I Librarian from the date on which his immediate junior Mr. Jayabal was promoted. Since the petitioner was already retired from service, the respondents are directed to pay the petitioner the benefits payable to Grade-I Librarian, from 19.04.1999 till the date of his retirement on 30.09.2002 and also revise his terminal benefits, within a period of eight weeks from the date of receipt of a copy of this order.

7. The writ petition is ordered in the above terms. No costs