

(2014) 12 MAD CK 0389

Madras High Court (Madurai Bench)

Case No: W.P.(MD). No. 13459 of 2014 and M.P.(MD). Nos. 1 to 3 of 2014

S. Jeyaraj

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision: Dec. 4, 2014

Hon'ble Judges: T. Raja, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

T. Raja, J.

This Writ Petition has been filed praying for a Writ of Mandamus, to direct the 2nd respondent to reassess the seniority list of Assistants prepared in the year 2010 and Fit list of Assistants for promotion as ACTO for the year 2010, published in the proceedings No. P.2/7347/2010 dated 15.06.2010, by issuing notices and giving due opportunity to the persons, who may be aggrieved, as directed by this Court vide order dated 31.01.2014 in W.P.No. 14032 of 2011 and cancel the order issued in the 2nd respondent's proceedings No. P. 2/16846/2011, dated 17.05.2011 and include the petitioner's name in the seniority list and Fit list of Assistants for promotion as ACTO for the year 2010 in the appropriate place and promote the petitioner as ACTO in the year 2010 and grant all the attended service and other benefits within the time limit fixed by this Court.

2. On 03.12.2014, when this matter was listed, this Court passed the following order:-

"2. Mr.K.Chellapandian, learned Additional Advocate General appearing for the respondents 1 and 2 submitted that the prayer of the petitioner that the petitioner's name should be included in the Fit list of Assistants for promotion as ACTO for the year 2010 in the appropriate place so as to promote him as ACTO in the year 2010 has been considered by passing the proceedings dated 01.12.2014. The relevant portion is extracted as under:

"I wish to inform that the department has decided to revise the estimation of vacancies for the drawal of temporary panel of CTO for the year 2014 as 345 considering the vacancies available at present and also proposed to send proposals to Govt. For relaxation of Rule in favour of further 162 DCTOs including the writ petitioner viz., ThiruS.Jeyaraj, DCTO who is otherwise not qualified for promotion. Hence, the petitioner's request for inclusion in the temporary panel of CTO would be considered by way of inclusion of his name in the temporary panel of CTO for the year 2014 and his seniority would be placed in the appropriate place on par with his juniors, on receipt of Govt. orders for relaxation."

On the basis of the proceedings, dated 01.12.2014, it is submitted by Mr.K.Chellapandian, the learned Additional Advocate General that nothing survives in this Writ Petition.

3. However, learned counsel for the petitioner submitted that although the proceedings dated 01.12.2014 says that the name of the petitioner will be considered by way of inclusion of his name in the temporary panel of CTO for the year 2014 and his seniority will be placed in the appropriate place on par with his juniors, on receipt of Govt. Orders for relaxation, he should be placed specifically in between V.V.Swaminathan and S.Sabarmathi.

4. This Court looking at the proceedings dated 01.12.2014 can legitimately infer that the petitioner's name may be placed in between V.V.Swaminathan and S.Sabarmathi.

5. However, Mr.K.Chellapandian, the learned Additional Advocate General sought time to get clear instruction. Also he has stated that in view of the pendency of the Writ Petition, 345 vacancies are not filled in by way of promotion, as a result, the public administration suffers, on this basis, he has conceded to keep one post vacant.

6. In view of the submission, the respondents are directed to keep one post vacant and can proceed to fill up the rest of the promotional post, as per the rule."

3. Today, when the matter was taken up, Mr.Thirumoorthy, learned counsel for the petitioner submitted that when the petitioner belongs to B.C category and he was appointed on 08.11.2011, the said S.Sabarmathi and K.Manimekalai who were appointed on 28.12.2012 and 10.06.2011 respectively cannot be placed above the petitioner.

4. However, the learned Additional Advocate General, as stated earlier, taking instruction again reiterating his earlier statement, added one more point in favour of the petitioner stating that although in 2010 panel for promotion one S.Sabarmathi and K.Manimekalai were placed at Serial Nos. 126 and 127, after giving due notice to them and on receipt of the explanation from them, they will be placed in the suitable position depending upon the seniority of the petitioner. In

support of his contention, he has also produced the proceedings in Letter No. P2/26422/2014, dated 01.12.2014.

5. Recording the statement of learned Additional Advocate General and the proceedings dated 01.12.2014 which states that the seniority of the petitioner would be placed at the appropriate place on par with his juniors on receipt of the explanation from the concerned candidates, this Court disposes of this Writ Petition with a direction to the second respondent to place the petitioner in the appropriate place, namely, above his juniors, on receipt of their explanation from the concerned candidates. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed. No costs.