

Mr.M.Radhakrishnan Vs. the Director of Rural Development

Mr.M.Radhakrishnan Vs. the Director of Rural Development

SooperKanoon Citation : sooperkanoon.com/927268

Court : Chennai

Decided On : Apr-09-2012

Judge : Vinod K.Sharma, J.

Acts : [Constitution of India](#) - Articles 226

Appeal No. : W.P.No.201 of 2007 (T) O.A.No.3023 of 2001

Appellant : Mr.M.Radhakrishnan

Respondent : The Director of Rural Development

Advocate for Def. : Mr.R.Bala Ramesh, Adv.

Advocate for Pet/Ap. : Mr.V.Suthakar, Adv

Judgement :

This Writ Petition came to be numbered under Article 226 of the [Constitution of India](#) by way of transfer of O.A.No.3023 of 2001 from the file of the Tamil Administrative Tribunal, with a prayer for the issuance of Writ of Certiorarified Mandamus to call for the records, pertaining to the order, bearing R.O.C.No.10986 of 1998.K3, dated 25.10.1999, and the order, bearing R.O.C.No.10986/98.K3, dated 5.3.2000, of the second respondent and to quash the same, insofar as it relates the petitioner and further, to direct the respondent to include the name of the petitioner in the seniority list of Assistant in the appropriate place, by reckoning the seniority from the date of appointment as Assistant viz., 23.08.1987, with all

consequential benefits such as retrospective promotion, seniority, arrears of pay etc.,

ORDER

1. The petitioner is working as Assistant in Thondamuthu Block, at Coimbatore District. The Government of Tamil Nadu, decided to integrate Ministerial Service with Grama Sevak Service in the Rural Development Department. The post of Junior Assistant was integrated with Rural Welfare Office Grade-II and the post of Assistant was integrated with Rural Welfare Office Grade-I. The Single Service Rule was given retrospective effect w.e.f. 01.06.1979. The Grama Sevak, on being absorbed in the integrated category, was to undergo certain tests, whereas, the Ministerial Servants already possessed the test qualifications, prescribed for the Grama Sevak.

2. In view of the fact that the Grama Sevak was given time to acquire the prescribed test qualification, a direction was issued to the respondents to consider the case of the Grama Sevak, for further promotion, without insisting on test qualification, till 1st April, 1987. The period was, thereafter, extended upto 11th May, 1990. Finally, the Hon'ble Supreme Court, extended the time for acquiring the test qualification upto 4th May, 1994.

3. The case of the petitioner is that, this extension was given only to Grama Sevak Service, and not to Ministerial Service, though, acquisition of test qualification was preconditioned for promotion even prior to the introduction of two cadres.

4. It is the submission of the petitioner that, he was promoted in preference to his seniors in the cadre of Junior Assistant, on acquiring necessary qualification. On 28th December, 1990, the District Collector, Coimbatore, viz., the second respondent herein, published a panel of Assistant/Rural Welfare Officer, Grade-I, in which, the name of the petitioner was included at S.No.55. The persons, who were senior to the petitioner, in the lower category viz., Junior Assistant were not included in the panel.

5. On 23rd April, 1998, the second respondent, published a seniority list of Assistant, in which, the persons, who were promoted later to the petitioner were shown as seniors to him. The petitioner, being aggrieved by the seniority list, filed an Appeal. The Appeal was rejected, on the ground that, promotions to the post of Assistant were made on acquiring test qualification, which was subsequently, revised on seniors being promoted to the post of Assistant.

6. The order passed by the second respondent, in Appeal, was challenged by the petitioner, but, in the meantime, the final seniority list was prepared on 23rd April, 1999, maintaining the tentative seniority list.

7. The petitioner has challenged the final seniority list, on the ground that, it is violative of Articles 14 and 16 of the [Constitution of India](#).

8. The learned counsel for the petitioner contends that no relaxation could be given to the Ministerial cadre employees, for acquiring the test qualification, which was prescribed much prior to the integration of two cadres. That, the date of seniority is to be taken from the date of promotion of the Assistant. The seniority list is also said to be contrary to the clarifications given by the first respondent.

9. The learned counsel for the petitioner contends that the order of final seniority list deserves to be quashed and the seniority list of the petitioner may be restored, as originally shown.

10. On consideration, I find no merit in the Writ Petition, though the petitioner has challenged the seniority of many persons, by claiming them to be junior to him, but, the necessary parties have not been impleaded. In the absence of necessary parties, no order can be passed, quashing the seniority list.

11. The petitioner has also not placed on record, any rule of seniority in support of the contentions raised, rather, it is pleaded that the clarification was given by the first respondent, that for the purpose of preparing the seniority list of Assistant, seniority in the lower category was to be retained.

12. It is the case of the petitioner himself that, the persons shown seniors to him, were seniors to him, as Junior Assistants, and that the petitioner claims them to be

juniors, only because, the petitioner was promoted as Assistant, earlier in time on acquiring the test qualification.

13. In the absence of rule of Seniority, and in the absence of necessary parties, it is not open to the petitioner to challenge the seniority list. The petitioner also does not have any locus standi to challenge the decision of State Government in exempting particular class of employees from passing test qualifications, as it is not disputed that the Government has power to relax the rules.

14. For the reasons stated hereinabove, the Writ Petition, being devoid of merits, is ordered to be dismissed. No costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com