
(2011) 03 MAD CK 0254

In the Madras High Court

Case No : Writ Petition No. 29174 of 2008 and M.P. No's. 1 and 2 of 2008

K. Meenakshi Sundaram

APPELLANT

Vs

The Managing Director, The General Manager-Administration
(HRM) and The Branch Manager

RESPONDENT

Date of Decision : 01-03-2011

Acts Referred:

Citation : (2011) 03 MAD CK 0254

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : M. Sekar, for the Appellant; A. Panneerselvam, for the Respondent

Judgement

Vinod K. Sharma, J.—The Petitioner has approached this Court with a prayer for issuance of a Writ in the nature of Certiorari, to quash the

seniority list drawn by the 1st Respondent herein vide his proceedings No. Admn/A3/19250/89 dated 24.4.1995.

2. The Petitioner participated in the written test conducted on 12.11.1988 and also in the interview held on 12.12.1988. The Petitioner was

selected and appointed as Officer - Law in the pay scale of 1420-85-2100-100-3100. He was directed to join duty on or before 10.11.1989. In

pursuance to the selection, the Petitioner joined the 3rd Respondent office. After completing the training period successfully, the Petitioner was

issued a letter appointing him regularly with effect from 16.12.1989. The Petitioner was on probation for a period of one year. However, in view of

the report submitted with regard to the conduct of the Petitioner, the period of probation was further extended by one year and thereafter the

Petitioner stood confirmed as Officer-Law.

3. The grievance of the Petitioner is that the seniority of the Petitioner was wrongly shown at Serial No. 158, in the seniority list as against the Serial No. 140, on the ground that the Petitioner was regularly appointed from 16.12.1989. The representation was filed by the Petitioner, to correct the seniority list on 4.5.1995. The representation made by the Petitioner, was rejected by a non-speaking order on 9.12.1995. Thereafter, for the first time, the Respondents circulated seniority list of the Law Officers vide Letter No. Admn/A3/19250/89 dated 24.4.1995. The covering letter to the seniority list reads as under:

ORDER

Hitherto the Corporation continued to adopt the system of fixing the seniority on the basis of the date of confirmation given to the employees in

each and every post and the seniority list of the employees is prepared accordingly while considering promotion for various categories.

2. The Board of TIIC Limited in its meeting held on 8.3.1995 have decided as follows:

(a) The system of seniority on the basis of ranking at the time of selection irrespective of the date of their joining in the Corporation shall be

followed in respect of all future appointments to be made in this Corporation. The date of commencement of their probation shall however be the

date on which they join duty irrespective of their seniority.

(b) In all other cases which are not covered by item (a), the date of their joining in the substantive vacancy will be the criterion for fixing the

seniority.

(c) With regard to the promotees from among the employees of the Corporation, the seniority in the promoted post will be on the basis of their

seniority in the lower post/entry point, as the case may be, unless otherwise specific orders contrary to these positions are passed by the Appointing

Authority.

(d) Wherever existing employees are selected for appointment out of turn through examination/interview, their seniority shall be fixed based on their

ranking in such examination/interview.

(e) The seniority of the candidates recruited directly to the posts of Assistant Manager, Officer (Finance), and Officer (Technical) done in the year

1994 would be based on the rankings obtained by them in the selection through examination/interview.

(f) Cases in which seniority has been already settled, other than the recruitments made in the year 1994 and referred to above may not be

reopened because of the insurmountable practical difficulties in doing so.

(g) In matters like determination of inter-se seniority between direct recruits and promotees, including cases in which persons from both categories

join duty on the same day, the procedure followed by the Government of Tamil Nadu in respect of Government employees under "General Rules"

shall be followed.

Based on the decisions taken by the Board, a seniority list in respect of various categories of posts in the Corporation has been prepared and is

enclosed. Any errors noticed in the implementation of the decision shall be brought to the notice of Chairman and Managing Director within two

weeks from the date hereof failing which no further representation in that regard will be entertained.

4. The Petitioner again made a representation for fixing the seniority as per the procedure laid down in the letter dated 24.4.1995 according to

which the seniority is to be fixed on the basis of the ranking at the time of selection. The Petitioner, therefore claimed that the seniority be fixed on

the basis of merit in the selection list dated 27.10.1989. The representation of the Petitioner was again rejected by order dated 29.3.2008. The

order reads as under:

Thiru K. Meenakshisundaram, Sel. Gr. Officer (Legal), Legal Department, Head Office is informed that he had joined in the Corporation on

3.11.1989 as trainee and after completion of training period, he was appointed as Officer (Legal) on Probation on 29.3.1990 w.e.f. 16.12.1989

for a period of one year. During the probation period, he took frequent leave and he was negligent in his duty. Since he was issued Memo on

9.4.1991 and explanations were called for. Since his services during the probationary period were not satisfactory, his probation period was

extended for a period of one year beyond the period of one year already fixed in Admn/A3/2509/90-3, dated 29.3.1990. After completion of the

probationary period, he was confirmed on 2.1.1992. The Corporation had earlier adopted the system of fixing the seniority on the basis of the date

of confirmation given to the employees in each and every post and the seniority list of the employees was prepared accordingly as on 31.3.1995.

Hence, the Corporation could not consider his request for refixing of his Seniority.

5. A reading of the order shows that no reasons have been given, nor it has been disclosed as what were the rules to frame the seniority prior to

24.4.1995. No seniority list was placed by the Respondents. The order passed by the 1st Respondent rejecting the representation of the

Petitioner, on the face of it is a non-speaking which does not disclose any reasons, nor it discloses rules and regulations to seniority.

6. The impugned seniority list shows that the seniority is to be fixed on the merit in the selection and not on the basis of confirmation. Consequently,

the order rejecting the representation being contrary to law is set aside, and the case is remanded back to the 1st Respondent to reconsider the

claim of the Petitioner for fixing of seniority in accordance with rules, more specifically, in view of the Board decision dated 24.4.1995 reproduced

above.

7. The Respondents are directed to pass a detailed speaking order on the representation of the Petitioner. The needful to be done within a period

of one month from the date of receipt of certified copy of this Order. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.03.2011