



Writ Appeal No.1284 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
03.07.2024

PRONOUNCED ON
16.07.2024

CORAM

**THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No.1284 of 2022
and C.M.P.No.8094 of 2022**

1.The Principal Secretary,
Rural Development and Panchayat Raj
Department,
Secretariat, Chennai – 600 009.

2.The Director,
Rural Development and Panchayat Raj
Department,
Panagal Building, Saidapet,
Chennai – 600 015.

3.The District Collector,
Krishnagiri District,
Krishnagiri.

4.The District Collector,
Dharmapuri District,
Dharmapuri.

... Appellants

Vs

N.Rajamanickam

... Respondent



Writ Appeal No.1284 of 2022

PRAYER:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 09.07.2020 made in W.P.No.17769 of 2010 and pass such further order.

For Appellants : Mr.V.Manoharan AGP

For Respondent : Mrs.Sudharshana Sundar

JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Intra Court Appeal had been preferred as against the order of the learned Single Judge, wherein the learned Single Judge had set aside the order of the third appellant, dated 20.04.2001, 04.01.2010 and 10.05.2010 and had directed the appellant to consider the case of the respondent for promotion on par with his immediate juniors and grant him all monetary benefits within a time frame.

2. Heard Mr.V.Manoharan, learned Additional Government Pleader appearing on behalf of the appellants and Mrs.Sudharshana Sundar, learned counsel appearing for the respondent.



Writ Appeal No.1284 of 2022

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3. Mr.V.Manoharan, learned Additional Government Pleader appearing for the appellants would submit that the respondent herein was appointed on compassionate grounds as a Record Clerk in the year 1991 and as a Junior Assistant on 27.03.2000, which post was regularised. On completion of his probation, he was also included in the panel for promotion to the post of Assistant and he had joined the post of Assistant on promotion on 16.10.2003. A panel for Deputy Block Development Cadre was drawn on 01.03.2012 and he was promoted on 11.01.2013, in which post he also joined. As on 01.01.2018, he was placed in Serial No.50 in the seniority cadre of Deputy Block Development Officer. The respondent also attained the age of superannuation on 31.05.2018. The third appellant by his proceedings dated 24.04.2001, had passed orders holding that the respondent is not entitled to any benefits including the monetary benefits of his service for the period, he had rendered service prior to 27.03.2000. Thereafter, the seniority list had also been drawn in the cadre of Junior Assistant wherein he was also placed in Serial No.56.



Writ Appeal No.1284 of 2022

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In the cadre of Assistant, he had been placed in Serial No.82A and in the cadre of Deputy Block Development, he had been placed in serial No.50.

4.He would submit that the respondent herein is claiming to be senior of one V.Hemalatha was also appointed on compassionate grounds came to be made later sought to be placed above her. In that respect, he would submit that even in the seniority list for the cadre of Junior Assistant, the said Hemalatha was placed in serial No.4 and the respondent was placed in serial No.86. Thereafter, in the seniority for the cadre of Assistant, which was drawn in 01.01.2007, the respondent was placed in serial No.82A and the said Hemalatha was placed in serial No.55A. The respondent had not made any claim either for revision of the seniority of the Junior Assistant within three years period and similarly, the seniority in the cadre of Assistant was also not challenged by the respondent. However, he had filed the Writ Petition against the final seniority list had been prepared. He would also submit that the case of the respondent had been rejected by holding that his claim could not be considered. The learned Single Judge without noting that the respondent was not senior to



Writ Appeal No.1284 of 2022

WEB CODE

that of the said Hemalatha to whom, he himself compares, had set aside the orders of the third respondent and had directed the third respondent by issuing a positive direction to place him above his immediate junior and grant him all monetary benefits. He would submit that the claim of the respondent had been rightly considered by the appellant and his claim had been rejected by holding that the seniority had been properly followed. If the order is to be implemented, it would lead to an anomaly, where the seniority list in the post of Junior Assistant which was published on 01.01.2000, would have to be revisited. Hence, he would seek interference with the order of the learned Single Judge.

5. Countering his arguments, Mrs.Sudharshana Sundar, learned counsel appearing for the respondent would contend that the respondent had joined the services on 03.04.1991, as a Record Clerk on compassionate grounds and that one Hemalatha had joined as Office Assistant only on 21.06.1991 also on compassionate grounds. Therefore, the said Hemalatha was junior to the respondent. However, the said Hemalatha was regularised in service in the post of Junior Assistant w.e.f., 20.01.1994 and



Writ Appeal No.1284 of 2022

the respondent was regularised in service only on 27.03.2000. This had created the anomaly to the place, the said Hemalatha above him. She would submit that the date of appointment of the respondent was prior to the said Hemalatha and therefore, he ought to have been placed in the seniority list above the said Hemalatha. She would further contend that while granting promotion to the post of Assistant even though the respondent's name was found in serial No.86, he was not granted promotion and the said Hemalatha was granted promotion. The respondent was only granted promotion in the year 2003. In that aspect, she would contend that the respondent had been denied the opportunity of being promoted, during his period of service and therefore, the seniority of the respondent should be placed appropriately and all attendant benefits including the monetary benefits should be given to him. The learned Single Judge had rightly concluded so and in that aspect, requires no interference of the order passed by the learned Single Judge.

6. We have considered the rival submissions made by the learned counsels appearing for their respective parties and perused the materials



Writ Appeal No.1284 of 2022

available on record.

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7. It is not disputed that one Hemalatha had been appointed after the appointment of the respondent. Both of them have been appointed on compassionate grounds. However, it has been brought to the notice that the services of Hemalatha had been regularised w.e.f., 20.01.1994 and the services of the respondent had been regularised only w.e.f., 27.03.2000. His order of regularisation was made in G.O.Ms.No.46, dated 05.02.2000, wherein his services as Junior Assistant cum Typist was only regularised from the date of issue of Government Order subject to him clearing the typewriting examination. For better appreciation, the relevant paragraph of the Government Order is extracted hereunder:-

2.இந்த முன்மொழிவை அரசு நன்கு ஆய்வு செய்தது. கருணையின் அடிப்படையில் பணி வாய்ப்பு வழங்கும் திட்டத்தின்படி, இளநிலை உதவியாளர் மற்றும் தட்டச்சர் பணியில் அமர்த்த திரு.என்.ராஜமாணிக்கம் தகுதி பெற்றுள்ளார். திரு.என்.ராஜமாணிக்கம் என்பவரை தமிழ்நாடு அமைச்சுப் பணியில்



Writ Appeal No.1284 of 2022

தருமபுரி மாவட்ட ஊரக வளர்ச்சித் துறை
பிரிவில் இளநிலை உதவியாளர் மற்றும்
தட்டச்சர் பதவியில் முறையாகப் பணியமர்த்த
அரசு ஆணை வெளியிடும் நாள் முதல்
மனுதாரர் அரசாணை எண்.50 பணியாளர்
மற்றும் நிர்வாக சீர்திருத்தத்துறை நாள்
:14.2.95-ல் தெரிவிக்கப்பட்டுள்ளபடி தட்டச்சுத்
தேர்வுகளில் தேர்ச்சி பெற வேண்டும் என்ற
அறிவுறுத்தலுடன் தமிழ்நாடு அரசுப் பணியாளர்
தேர்வாணைய ஒழுங்குமுறை விதி 15(ஆ)வின்
பிற்பகுதியின்படி தேர்வாணையமும் இசைவு
அளித்துள்ளது.

8.The respondent had not challenged the said order of regularisation.

However, the services of the said Hemalatha had been regularised in the cadre of Assistant w.e.f., 20.01.1994. Even though the date of joining of the respondent was prior to the said Hemalatha, he has not sought any relief for regularisation of his service from the date of initial appointment and therefore, his services from 1991 till his date of regularisation was only



Writ Appeal No.1284 of 2022

a 10(a)(i) appointment, which cannot be counted for the purpose for fixing seniority. In such an event, we are of the opinion that the learned Single Judge had not considered the aforesaid contingencies in ordering the Writ Petition as prayed for by the respondent.

9. For the aforesaid reasons, we are inclined to interfere with the order passed by the learned Single Judge and in fine, the Writ Appeal is allowed and the order passed by the learned Single Judge in W.P.No.17769 of 2010, dated 09.07.2020, is set aside. However, there shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

(D.K.K.,J.) (K.B., J.)
16.07.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

The Government of Tamil Nadu,
Represented by its Secretary to Government,
Housing and Urban Development Department,

9/12



Secretariat,
Chennai – 600 009.

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Writ Appeal No.1284 of 2022



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Writ Appeal No.1284 of 2022

D. KRISHNAKUMAR., J.
and
K.KUMARESH BABU.,J.

Pbn

A Pre-delivery Judgment made in
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16.07.2024



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Writ Appeal No.1284 of 2022