

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.15730 of 2015

K.Senthilkumar

...PETITIONER

Vs

The District Collector (PD) Section,
Tiruvannamalai District,
Tiruvannamalai.

...RESPONDENT

Writ Petition filed under Article 226 of the Constitution of India for the issue of Writ of Mandamus, directing the respondent to consider the name of the petitioner for promotion to the post of Deputy Block Development Officer based on his feeder category seniority without insisting for service qualification of working for a period of one year each in the cadre of Assistant/Rural Welfare Officer Grade I together with retrospective notional benefits.

For Petitioner : Mr.V.Suthakar

For Respondent : Mr.K.V.Dhanapalan,
Additional Government Pleader

सत्यमेव जयते

O R D E R

In view of the limited prayer made during the course of hearing the Writ Petition, by consent, the Writ Petition itself is taken up for final disposal.

2. The petitioner was initially appointed as Junior Assistant on compassionate ground on 28.03.2007. He ought to have been promoted as Assistant in the year 2009 itself. Since the issue relating to regularisation was pending with the Government, he was not promoted, when his juniors were promoted. Later, the Government issued G.O.(3D) No.126, Rural Development and Panchayat Raj Department dated 17.07.2013 regularising the service of the petitioner in the cadre of Junior Assistant w.e.f. 28.03.2012. Thereafter, the Government declared that the petitioner successfully completed the probation in the post of Junior Assistant. Only thereafter, he was promoted as Assistant on 02.01.2015 after regularising his service in the year 2013 and declaration of probation in 2014.

3. Taking into account the aforesaid fact, the seniority of the petitioner in the cadre of Junior Assistant was fixed at No.50 over and above one N.Shankar who is assigned at No.55 in the seniority list of Junior Assistant. Likewise, the petitioner is given a rank at No.207(b) in the seniority list of Assistant. The next promotion to the post of Assistant is the Deputy Block Development Officer. The juniors of the petitioner were promoted, but the petitioner was not promoted on the sole ground that he has not acquired the service qualification for promotion to the post of Deputy Block Development Officer since he has not worked in the post of Assistant or RWO Grade I.

4. According to the petitioner, the petitioner cannot be blamed for not serving as Assistant/RWO Grade I for one year each in those posts. Only due to the delay of his regularisation, he is not able to get service qualification. When he is not at fault for not getting service qualification, he cannot be denied promotion while his juniors were promoted. The petitioner made a representation dated 22.04.2015 to the respondent to promote him as a Deputy Block Development Officer from the date on which his immediate juniors were promoted notionally without insisting service qualification.

5. The learned Counsel for the petitioner has submitted that the respondent could be directed to dispose of the said representation in the light of a decision of this Court in W.P.No.16697 of 2007 (S.Sasisivanandam vs. The District Collector, Thoothukudi District, Thoothukudi and another) dated 12.10.2011.

6. In view of the narrow prayer made by the learned Counsel for the petitioner, the Writ Petition is disposed of directing the respondent to consider and pass orders on the representation of the

petitioner dated 22.04.2015 on merits and in accordance with law and also in the light of the orders passed by this Court in W.P.No.16697 of 2007 (S.Sasisivanandam vs. The District Collector, Thoothukudi District, Thoothukudi and another) dated 12.10.2011, within a period of eight weeks from the date of receipt of a copy of this Order. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The District Collector
(PD) Section,
Tiruvannamalai District,
Tiruvannamalai.

1 CC to Mr.V.Suthakar, Advocate SR.No. 27032

1 CC to the Government Pleader, SR.No. 26871

VD (CO)
PSI (15.06.2015)

W.P.No.15730 of 2015



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