

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.34855 of 2015

And

M.P.No.1 of 2015

G.Sathishkumar ... Petitioner

Vs.

- 1 The Special Commissioner Cum
Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St.George,
Chennai-09.
- 2 The District Collector,
Dharmapuri District,
Dharmapuri.
- 3 The Personal Assistant to District Collector (Development),
Dharmapuri District,
Dharmapuri.
- 4 R.Raman ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to grant the petitioner with promotion to the post of Assistant on par with the petitioners immediate junior the fourth respondent by taking into consideration of the fact that the petitioners services were regularized with effect from the initial date of appointment i.e. 13.02.2002 vide G.O.Ms.No.27, Rural Development and Panchayat Raj Department, dated 03.04.2008 and that the petitioners probation was declared vide G.O.Ms.No.104 dated 04.03.2010 with effect from 16.03.2005 and accordingly further direct the respondents to consequentially promote the petitioner to the post of Deputy Block Development Officer on par with the petitioners immediate junior fourth respondent herein.

For Petitioner : Ms.Dakshayani Reddy

For Respondents : Mr.V.Subbiah for R1 to R3
Special Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The father of the petitioner was working as an Assistant in Harur Panchayat Union, Dharmapuri District and he died in harness on 05.09.1992. The petitioner submitted a representation seeking appointment on compassionate ground and accordingly it was considered and he was given appointment as Junior Assistant on 13.02.2002 and according to him, ever since the date of appointment, he is performing his duties satisfactorily and without any blemish. The petitioner was removed from service on the ground that his order of appointment was given during the ban period and challenging the legality of the order, he filed O.A.No.342 of 2003 before the Tamil Nadu Administrative Tribunal and it was allowed and the petitioner was reinstated in service on 18.02.2004 and subsequently, his services were regularized vide G.O.Ms.No.27, Rural Development and Panchayat Raj Department, dated 03.04.2008 retrospectively with effect from 13.02.2002. The period in which the petitioner was out of service i.e., from 16.01.2003 to 17.03.2004 was also regularized.

3. The petitioner would further state that he has completed the departmental test within five years and was also deputed for training in Bhavani Sagar and his probation was also successfully declared in G.O.Ms.No.104, dated 04.03.2010 retrospectively with effect from 16.03.2005 and in consequence, he claims that he is fully eligible for inclusion of his name in the panel for promotion to the post of Assistant for the year 2006. It is further stated that the petitioner's immediate juniors have been promoted by virtue of the fact of inclusion of their name in the panel for promotion they were promoted as Assistant on 08.02.2007 and however, his name has been omitted and the reason appears to be on account of the non regularisation of his service and consequential non declaration of his probation and it was only due to administrative reasons.

4. It is further submitted that the petitioner was promoted to the post of Assistant with effect from 23.06.2010 and the next avenue of promotion from the post of Assistant is to the post of Deputy Block Development Officer and the name of the juniors to the petitioner have been included in the panel prepared for the year 2011 and they got their promotion and also due for further promotion and in this regard the petitioner has pointed out the said infirmity and submitted a detailed representation dated 05.06.2015 to the second respondent through proper channel and since no orders have been passed, came forward to file this writ petition.

5. The learned counsel appearing for the petitioner would submit that in the light of the fact that his services were regularised with effect from the date of his initial appointment from 13.02.2002 and his probation was also successfully declared on 04.03.2010 retrospectively with effect from 16.03.2005, his name should have been included in the panel for promotion for the year 2006 and he should be given promotion retrospectively with effect from 08.02.2007 when his immediate junior was given promotion and he should have been promoted to the post of Deputy Block Development Officer and since it has not been done, he is constrained to approach this Court.

6. It is further submitted by the learned counsel appearing for the petitioner that the matter in issue is squarely covered by the order of this Court dated 05.06.2015 made in W.P.No.959 of 2015 and the order of this Court dated 19.02.2014 made in W.P.No.15889 of 2013 which was confirmed by the order of the Hon'ble Division Bench of this Court dated 28.05.2015 made in W.A.Nos.302, 425 and 855 of 2014 and prays for appropriate orders.

7. This Court also heard the submissions of Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the respondents 1 to 3.

8. This Court taking into consideration the fact that the petitioner was also promoted to the post of Assistant with effect from 23.06.2010 and in the light of the above facts and circumstances, directs the second respondent to consider and dispose of the petitioner's representation dated 30.06.2011 and 05.06.2015 on merits and in accordance with law and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till then, one post of Deputy Block Development Officer shall be kept vacant and it is made clear that keeping one post of Deputy Block Development Officer vacant is subject to the disposal of the above said representations.

9. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

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Sd/-
Assistant Registrar

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Sub-Assistant Registrar

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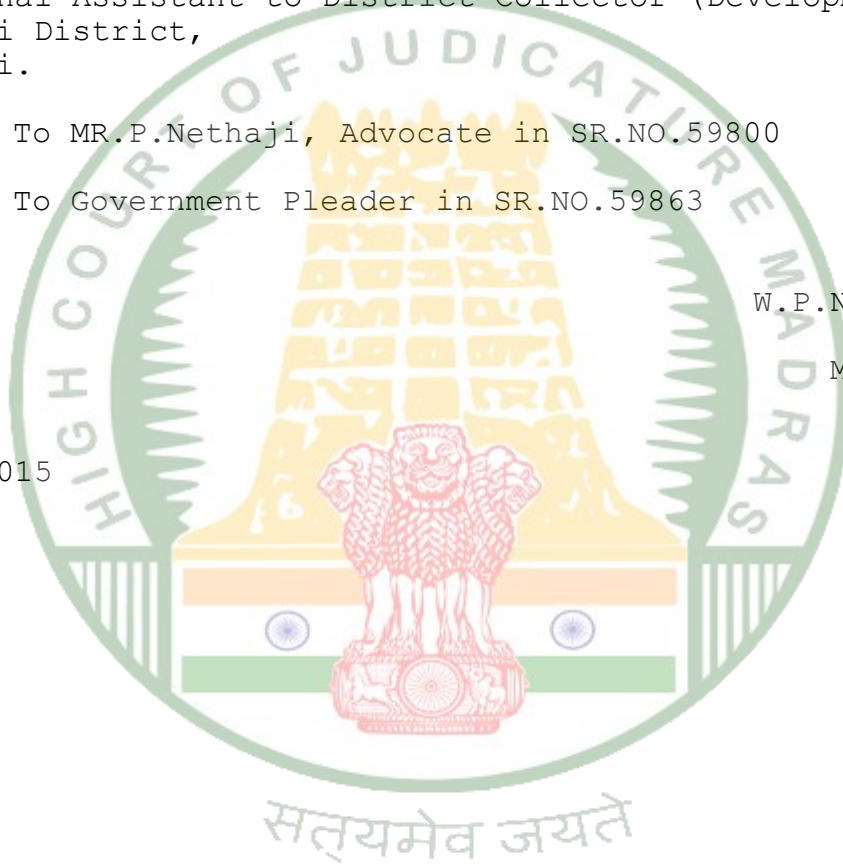
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+1 C.C. To MR.P.Nethaji, Advocate in SR.NO.59800

+1 C.C. To Government Pleader in SR.NO.59863

W.P.No.34855 of 2015
And
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TEJ(CO)
sd : 04/11/2015



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