

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.17789 of 2007 (T)
O.A.No.647 of 2004

A.Jayaraman

... Petitioner

Vs.

1.The Director of Rural Development,
Chennai - 600 015.

2.The District Collector,
Tirunelveli District.
Tirunelveli.

3.The Personal Assistant (PD)
to the Collector,
Tirunelveli.

.... Respondents

PRAYER: Writ Petition came to be numbered by transfer of O.A.No.647 of 2004 on the file of the Tamil Nadu Administrative Tribunal seeking to call for the records of the second respondent relating to (1) Proc.Na.Ka.No.Gnga.2/10422/2002, dated 12.05.2003, and (2) Proc.Na.Ka.No.Gnga.3/10422/2002, dated 13.06.2003, quash the same and consequently, issue directions to the respondents herein to include the name of the petitioner in the panel as on 01.03.1995 for promotion as Assistant/Rural Welfare Officer, Grade-I, in Tirunelveli District, in the appropriate place therein to give retrospective effect to his promotion as such with effect from the date of promotion of his immediate junior with all consequential service and monetary benefits, including promotion as Extension Officer.

For Petitioner : Mr.M.Ravi

For Respondents :Mr.R.Govindasamy, AGP

ORDER

The petitioner filed O.A.No.647 of 2004 before the Tamil Nadu Administrative Tribunal seeking to quash the impugned orders passed by the second respondent / the District Collector, Tirunelveli, in Proc.Na.Ka.No.Gnga.2/10422/2002, dated 12.05.2003, and another Proc.Na.Ka.No.Gnga.3/10422/2002, dated 13.06.2003, with a consequential direction to the respondents herein to include the name of the petitioner in the panel as on 01.03.1995 for promotion as Assistant/Rural Welfare Officer, Grade-I, in Tirunelveli District, in the appropriate place therein to give retrospective effect to his promotion as such with effect from the date of promotion of his immediate junior with all consequential service and monetary benefits, including the promotion as Extension Officer. On abolition of the Tribunal, the same was transferred to the file of this Court and re-numbered as W.P.No.17789 of 2007.

2. Learned counsel appearing for the petitioner submitted that the petitioner was initially appointed as Typist through the Tamil Nadu Public Service Commission and thereafter, he was posted at the Block Development Office, Manamadurai, Sivagangai District, on 12.01.1991. On completion of his probation on 27.01.1993, he was transferred at his request to Tirunelveli District on 15.02.1995. At Tirunelveli District, his seniority was fixed at Sl.No.380, below one Mr.Chandran, the junior-most approved probationer in the post of Junior Assistant as on 15.02.1995 i.e. the date on which the petitioner was transferred. It is further submitted that on account of promotion given to 43 employees to the post of Extension Officer from the post of Assistant/Rural Welfare Officer, Grade-I/Accountant, though there were many vacancies to the post of Assistant/Rural Welfare Officer, Grade-I, as on 01.03.1995, which is the crucial date for the drawal of 1995 panel for promotion to the said post, the respondents had deliberately failed to draw such panel. He further submitted that in the year 1993 itself, the probation of the petitioner has been declared, therefore, he should have been placed above one Mr.Palaniappan, as his probation itself was not declared on the crucial date for drawal of 1995 panel for promotion to the post of Assistant/Rural Welfare Officer, Grade-I, i.e. on 01.03.1995. However, the District Collector had declared the probation of the said Palaniappan on 23.11.1995 after the lapse of 13 years from the date of his actual appointment. But, in the meanwhile, though the petitioner forwarded many representations to the concerned authorities for inclusion of his name in the above said panel, the District Collector, Tirunelveli, vide his proceedings dated 12.05.2003, rejected the same holding that the said Palaniappan joined duty as Junior Assistant much before the petitioner and that the panel itself was not drawn for want of vacancies.

3. It is the further contention of the learned counsel for the petitioner that a mere perusal of the proceedings dated 16.11.1995 and 25.12.1995 of the District Collector, Tirunelveli, would reveal that a panel has been drawn and orders of promotion were given for Assistant/Rural Welfare Officer, Grade-I, to the post of Extension Officer, therefore, many vacancies would have been lying vacant for the said post during the year 1995 and thus, the reason assigned by the second respondent in the impugned orders stating that there were no vacancies to draw such panel is wholly unsustainable. Rebutting one another reason assigned in the impugned orders that he has not completed one year of service as Rural Welfare Officer, Grade-I, learned counsel for the petitioner brought to the notice of this court a letter dated 23.04.1994 addressed to the Collectors of all the Districts by the Director for Rural Development, Chennai, wherein it is stated that the departmental authorities should ensure that due opportunities are to be given to all the staff to secure service qualification. By citing the same, he contended that merely because the petitioner did not work for one year in the said post, they cannot put such condition, as it is the failure on the part of the respondents to give such post. Therefore, with these submissions, he sought for setting aside the impugned orders.

4. Per contra, learned Additional Government Pleader appearing for the respondents, by filing a detailed counter affidavit, submitted that since the petitioner entered into the Government Service on 12.01.1991, his request to fix the seniority before one Mr.N.Palaniappan, who has entered into the service on 25.06.1984, is far from acceptance, since the seniority has been fixed correctly in the cadre of Junior Assistant/Rural Welfare Officer Grade-II/Cashier/Typist, therefore, his request to change his seniority in the cadre of Junior Assistant/Rural Welfare Officer Grade-II/Cashier/Typist, is liable to be rejected. That apart, as per G.O.Ms.No.585, Rural Development and Local Administration Department, dated 12.04.1984, the petitioner should have possessed the following qualifications for getting promotion as Assistant/Rural Welfare Officer Grade-I:

- i. Declaration of completion of probation in the cadre of Junior Assistant/RWO Gr-II/Typist/Cashier.
- ii. Should have worked for one year as Junior Assistant/Typist/Cashier.
- iii. Should have worked for one year as RWO Grade-II.

5. By citing so, it is further submitted that in the present case, the petitioner, no doubt, has completed the above said first two qualifications, but, he has not worked as Rural

Welfare Officer, Grade-II, for one year as on 01.03.1995, namely, on the crucial date. Therefore, the petitioner was not eligible to be included in the panel for the year 1995. It is further submitted that, in G.O.Ms.No.585, dated 12.04.1984, the Government have formulated new service rules for the posts in the Panchayat Development Department under Single Service Rules System, which came into retrospective effect from 01.06.1979. That apart, as per G.O.Ms.No.349, Personnel and Administrative Department, dated 12.04.1984, Rural Welfare Officers Grade I and II were brought into the Ministerial Service, therefore, due to the merger, conflict arose between the Ministerial Staff and the Rural Welfare Officers regarding the fixation of inter-se seniority and thereafter, both of them have filed O.A.Nos.1923/90, 2844/93 to 2848/93, 3101/93 to 3103/93, 3070/90 and T.A.Nos.349/90, 30/90 and 31/90 before the Tamil Nadu Administrative Tribunal. Upon getting the orders from the Tribunal, the tentative seniority list of Assistants/Rural Welfare Officer, Grade-I, for the period from 01.06.1979 to 31.12.1994 was prepared as on 01.01.1995 and communicated the same, vide proceedings dated 15.11.1995, by the District Collector, Tirunelveli. Based on the said list, the Extension Officer promotion was given to the Assistants/Rural Welfare Officer, Grade-I, vide District Collector's proceedings dated 16.11.1995. It is further submitted that one Mr.N.Palaniappan had passed his departmental tests on 23.11.1995 and his probation was declared with effect from 23.11.1995. Since his probation was declared as on 23.11.1995, his name was considered and promoted as Assistant during 1998 as per the Collector's proceedings dated 12.06.1998. Therefore, placing the said Palaniappan above the name of the petitioner cannot be found fault with. With these submissions, he prayed for dismissal of the writ petition.

6. This Court finds some force in the above said submissions of the learned Additional Government Pleader. No doubt, the petitioner, on his request, was transferred to Tirunelveli District from Sivagangai District and thereafter, he had joined duty in Tirunelveli District on 15.02.1995 as approved probationer. It is also an admitted fact that the probation of one Mr.N.Palaniappan was declared on 23.11.1995. However, since the merging of Rural Welfare Officers Grade I and II with Ministerial Service created serious dispute between the Ministerial Staff and Rural Welfare Officers with regard to fixation of inter-se seniority, both of them approached the Tribunal by filing O.A.Nos.1923/90, 2844/93 to 2848/93, 3101/93 to 3103/93, 3070/90 and T.A.Nos.349/90, 30/90 and 31/90, therefore, due to that, the department was unable to proceed with the preparation of panel in the year 1995 citing the pendency of the matter before the Tribunal and the Hon'ble Apex Court. Finally, the Government have issued orders and only thereafter, the tentative seniority list of Assistants/Rural Welfare Officer Grade I for the period from

01.06.1979 to 31.12.1994 was prepared as on 01.01.1995 and the same was also communicated vide proceeding dated 15.11.1995 of the District Collector. Based on the said list, the Extension Officer promotion was given to the Assistant/Rural Welfare officer Grade I as per the District Collector's proceeding dated 16.11.1995. Therefore, only due to the inter-se seniority conflict as detailed above, the seniority list in the cadre of Junior Assistant/Rural Welfare Officer Grade II/Cashier/Typist was issued only on 01.01.1993 i.e. upto 31.12.1992 and thereafter, all the eligible persons in the above said list has been promoted upto 1994 as Assistant/Rural Welfare Officer, Grade-I. Subsequently, as the seniority as on 01.01.1994 and 01.01.1995 in the cadre of Junior Assistant/Rural Welfare Officer Grade-II/Cashier/Typist was not prepared in view of the pendency of the cases as detailed above, the respondents could not draw the panel for the post of Assistant/Rural Welfare Officer, Grade-I, therefore, the claim of the petitioner that the respondents ought to have prepared a panel for the year 1995 cannot stand to any good reason. Accordingly, this Court, finding no merit in the writ petition, dismisses the same. No Costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

rkm

To

1.The Director of Rural Development,
Chennai - 600 015.

2.The District Collector,
Tirunelveli District.
Tirunelveli.

3.The Personal Assistant (PD)
to the Collector,
Tirunelveli.

1 cc to Mr.M. Ravi, Advocate, Sr. 15031
1 cc to Government Pleader, Sr. 15173

W.P.No.17789 of 2007

TEJ (CO)
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