

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.12223 of 2016

1 P.Thangavel [Petitioner]

Vs.

1 The Secretary to Government
Rural Development and Panchayat Raj Department
Secretariat, Fort St. George
Chennai-9.

2 The Director of Rural Development and Panchayat Raj
Saidapet
Chennai-15

3 The District Collector (PD) Section
Erode District Erode [Respondents]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the first respondent to pass appropriate orders with regard to inclusion of the name of the petitioner in the list of Deputy Block Development Officer for the year 2008 by relaxing the service qualification pursuant to the letter dated 08.01.2016 written by the third respondent within a period of four weeks or any other time limit as this Honourable Court may deem fit and proper.

For Petitioner : Mr.V.Suthakar

For Respondents : Mr.P.Chinnadurai, G.A

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O R D E R

Heard the learned counsel for the petitioner and Mr.P.Chinnadurai, learned Government Advocate, who took notice for the respondents and with their consent, the main writ petition itself is taken up for hearing.

2. This writ petition has been filed seeking a writ of mandamus, directing the first respondent to pass appropriate orders with regard to inclusion of the name of the petitioner in the list of Deputy Block Development Officer for the year 2008,

by relaxing the service qualification pursuant to the letter dated 08.01.2016 written by the third respondent within a time frame.

3. The petitioner P.Thangavel was appointed as Junior Assistant on 1.3.1993 on compassionate ground, as his father K.M.Palanisamy died in harness while he was in service as Vocational Instructor at Nambiyur Panchayat Union School, Erode District. After a lapse of 12 years of service, the petitioner's service was regularized, after obtaining concurrence from the Tamil Nadu Public Service Commission vide G.O.No.7, Rural Development Department dated 1.4.2004 and his probation in the cadre of Junior Assistant was also completed with effect from 23.11.1995 vide G.O.(2D) No.300, Rural Development Department dated 14.5.2005. Since the petitioner's service was not regularized in the post of Junior Assistant for more than 12 years, even though he has come within the zone of consideration for promotion to the post of Assistant in the year 1998, he was not considered for promotion to the said post. After the order of regularization and declaration of probation in the cadre of Junior Assistant, he was promoted as Assistant on 11.8.2005 and his seniority in the cadre of Junior Assistant was retrospectively included in the list of Assistants for the year 1998 by the order dated 28.3.2008 passed by the District Collector, Erode, the third respondent herein. Though he was promoted as Assistant on 11.8.2005, he was retrospectively given notional promotion in the cadre of Assistant from the year 1998. Hence, he came in the zone of consideration for the post of Deputy Block Development Officer in the year 2008.

4. The petitioner should have worked in the post of Assistant and Rural Welfare Officer Grade I for a period of one year each, in order to get promotion to the post of Deputy Block Development officer. However, he was promoted to the post of Deputy Block Development Officer on 5.1.2009. Subsequently, the seniority list of Deputy Block Development Officer was published by the third respondent on 7.12.2011, but his name was not included by following the feeder category seniority, viz. Assistant.

5. Therefore, the petitioner made an appeal to the third respondent to revise the seniority list. The third respondent informed the petitioner on 26.7.2012 that as per the feeder category seniority in the cadre of Assistant, he is entitled to be included in 2008 list of Deputy Block Development Officer. He failed to acquire the service qualification of working in the post of Assistant and Rural Welfare Officer Grade I for a period of one year each. Hence, his name will be included in the list of Deputy Block Development Officer for the year 2008 in the appropriate place, after getting relaxation from the Government.

In this regard, the petitioner submitted repeated representations.

6. After receipt of the representations, the District Collector, Erode in his proceedings dated 12.11.2002 sent a proposal to the second respondent, seeking relaxation from the Government as the petitioner has not served for a period of one year as Assistant and Rural Welfare Officer Grade-I. The said proposal has not yet been considered.

7. In this regard, the learned counsel for the petitioner also brought to the notice of this Court the final communication issued by the District Collector, Erode dated 8.1.2016 addressed to the first respondent, which is found at page No.40 of the typed set of papers. In the said communication, service register of the petitioner was furnished to the first respondent, for relaxing the service qualification for including his name in the list of Deputy Block Development Officer for the year 2008.

8. A perusal of the above proceedings also shows that the proposal submitted by the third respondent dated 12.11.2012 has not been looked into. Therefore, this Court is inclined to issue direction to the first respondent to consider the proposal submitted by the third respondent.

9. Hence, the first respondent is directed to consider the proposal submitted by the third respondent dated 12.11.2012 and also the letter dated 08.01.2016 written by the third respondent, for inclusion of the name of the petitioner in the list of Deputy Block Development Officer for the year 2008, by relaxing the service qualification, and pass appropriate orders, within a period of two months from the date of receipt of a copy of this order.

10. The writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(AS)

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Sub Assistant Registrar

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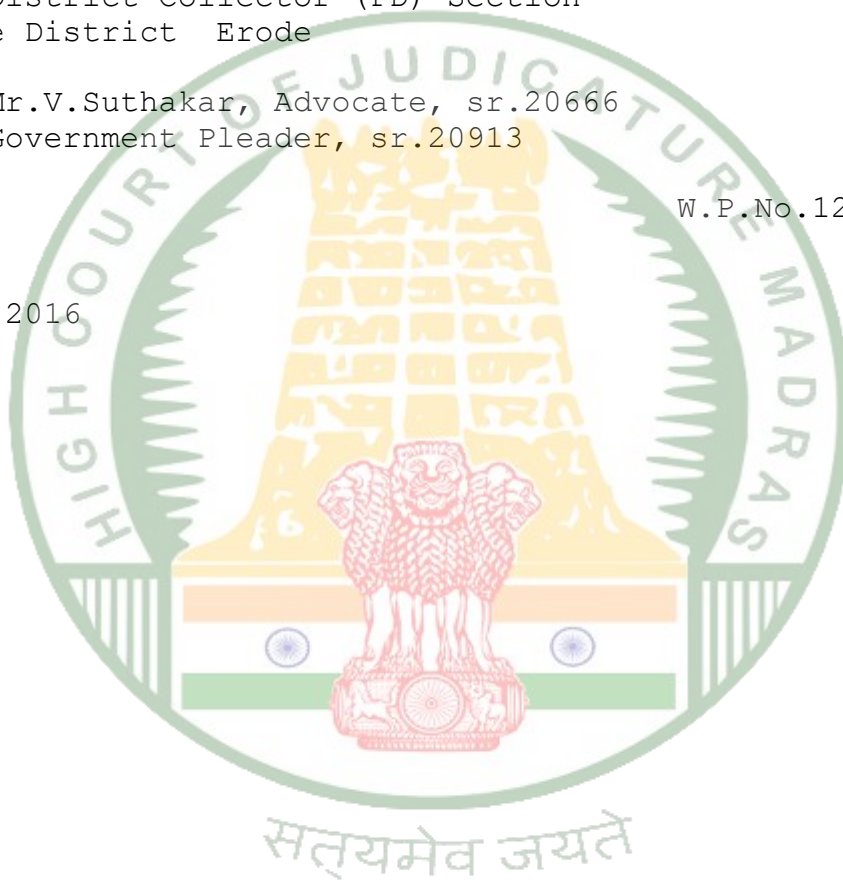
To

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+1 cc to Mr.V.Suthakar, Advocate, sr.20666
+1 cc to Government Pleader, sr.20913

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