

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.14331 of 2016

R.Suresh,
Assistant,
Directorate of Rural Development
and Panchayat Raj Department,
Panagal Building,
Saidapet,
Chennai-600 015. ... Petitioner

Vs.

- 1.The Secretary to Government,
Rural Development and Panchayat,
Raj Department,
Fort St.George,
Chennai-600 009.
- 2.The Director of Rural Development and
Panchayat Raj Department,
Panagal Building,
Saidapet, Chennai-600 015. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to consider the appeal of the petitioner dated 08.03.2016, against the order of the 2nd respondent dated 03.02.2016, in the light of the judgment of this Court in W.P.No.18408 of 2013, dated 21.07.2015 and in the light of the fact that the petitioner's date of appointment has been revised from 16.12.2010 to 01.06.2009 in the post of Junior Assistant and consequently, direct the respondents to re-fix the petitioner's seniority in the post of Assistant on par with the petitioner's juniors Thiru.R.Kuppusamy and Selvi.Vadhani and consequently, to grant petitioner with promotion to the post of appointment has been revised from 16.12.2010 to 01.06.2009 in the Deputy Block Development Officer with immediate effect.

For Petitioner : M/s.Dakshayani Reddy

For respondents : Mr.S.Gunasekaran, AGP

ORDER

This writ petition has been filed by the petitioner praying to direct the 1st respondent to consider the appeal dated 08.03.2016 preferred by the petitioner against the order dated 03.02.2016 passed by the 2nd respondent rejecting the petitioner's request for re-fixation of his seniority.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner, inter alia, as follows:-

2.1. The petitioner was originally appointed as Junior Assistant in the Rural Development and Panchayat Raj Department, on contract basis in the year 2003. Subsequently, a decision was taken by the Government to absorb the contract workers, by conducting a special examination. The petitioner and other similarly situated individuals wrote the examination. Though the individuals, who wrote the examination along with the petitioner, were permitted to join duty, the petitioner's result was not published. The petitioner was informed by the authorities that his result was withheld, since his community certificate was sent to the State Level Committee for the purpose of determining the genuineness of the community certificate. The petitioner belongs to Schedule Tribe Community. Thereafter, a State Level Committee conducted an enquiry and declared that the petitioner's community certificate was genuine and the petitioner was issued with an order of appointment with effect from 07.12.2010. Though similarly situated individuals, who wrote the examination along with the petitioner joined duty as early as in the year 2009, the petitioner was appointed only with effect from 07.12.2010, for no fault on the part of the petitioner. Consequently, the petitioner lost his seniority and other service benefits. The petitioner continued to work as Junior Assistant all along on a consolidated pay basis and was brought on time scale of pay only after being issued with the order of appointment.

2-2. Subsequently, the petitioner filed a writ petition in W.P.No.18408 of 2013 before this Court seeking to direct the respondents to revise his seniority and to provide all consequential service benefits. This Court, by order dated 21.07.2015, directed the respondents to consider the request of the petitioner. Pursuant to the order of this Court, the District Collector, Villupuram vide his proceedings dated 30.09.2015 revised the petitioner's seniority, just above one Thiru.R.Dhayabaran and further, directed the re-fixation of the pay of the petitioner on par with the said Thiru.R.Dhayabaran by taking into account the petitioner's appointment date as 01.06.2009 ie., the date on which the said Dhayabaran joined duty as Junior Assistant and further, granted the petitioner with monetary benefits with effect from 16.12.2010. Based on the said proceedings, the Personal

Assistant to the Direct Collector, Villupuram vide his proceedings dated 11.12.2015 regularized the service of the petitioner in the post of Junior Assistant with effect from 01.06.2009. Subsequently, by proceedings dated 08.02.2016, the Personal Assistant to the Collector, Villupuram re-fixed the petitioner's salary on par with the said Dhayabaran with monetary effect from 16.12.2010.

2-3.While so, the petitioner was promoted to the post of Assistant with effect from 04.03.2014, whereas the petitioner's juniors were promoted to the post of Assistant much earlier. Despite re-fixation of the date of regularization of the petitioner's service in the post of Junior Assistant, the consequential fixation of seniority in the post of Assistant was not effected.

2-4.Hence, the petitioner gave a representation to the 2nd respondent to re-fix his seniority in the post of Assistant and consequentially, to give promotion to the petitioner to the post of Deputy Block Development Officer, in as much as the petitioner's juniors had also been promoted to the post of Deputy Block Development Officer. The 2nd respondent vide his proceedings dated 03.02.2016 rejected the petitioner's representation on the sole ground that the petitioner had come from Villupuram to Chennai, on one way transfer on his own volition; hence, his seniority in the post of Junior Assistant could only be fixed as on 04.01.2012 in Chennai Division. Aggrieved over the same, the petitioner has preferred an appeal dated 08.03.2016 before the 1st respondent. Since the petitioner's appeal was not considered, he has come forward with the present writ petition seeking for the relief as stated supra.

3.Heard both sides and perused the materials available on record.

4.Considering the facts and circumstances of the case, without expressing any opinion on the claim of the petitioner, this Court directs the 1st respondent to consider the appeal dated 08.03.2016 preferred by the petitioner and pass appropriate orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of.

No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

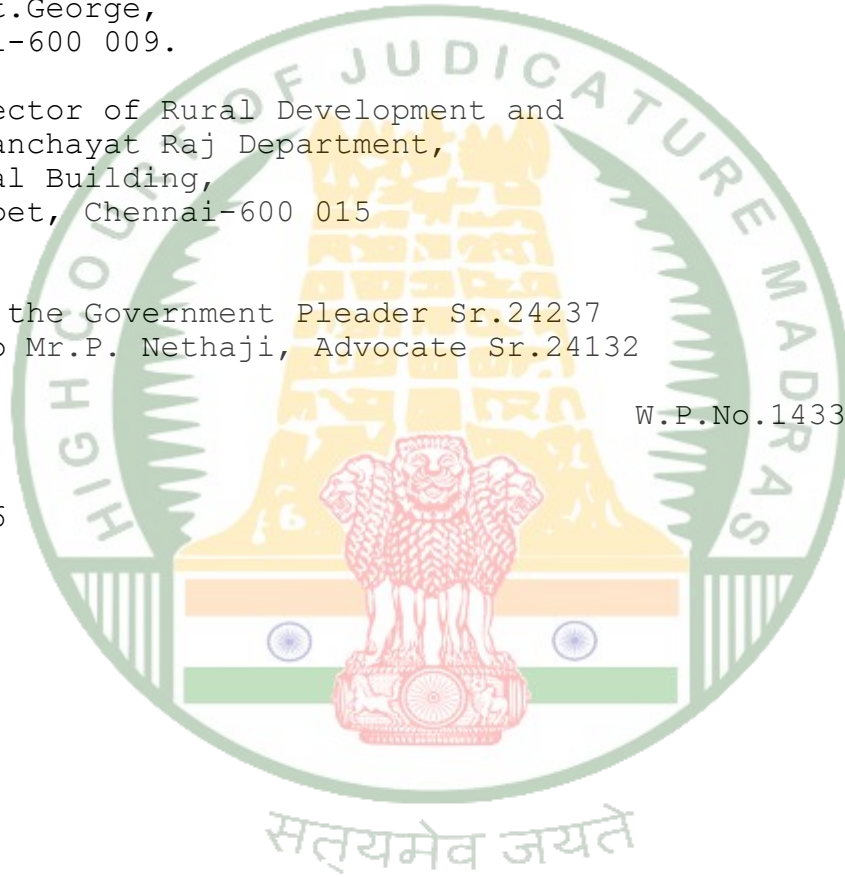
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+ 1 cc to the Government Pleader Sr.24237
+ 1 cc tdo Mr.P. Nethaji, Advocate Sr.24132

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