

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.06.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

Writ Appeal No.1913 of 2012

I.Munusamy

..Appellant/Petitioner

The District Collector,
Collectorate,
Cuddalore District

-vs-

..Respondent/ Respondent

WRIT APPEAL filed under Clause 15 of Letters Patent against the order passed in W.P.No.44099 of 2006, dated 09.12.2010.

Writ petition filed under Article 226 of the constitution of India praying to issue a writ of mandamus to direct the respondent to promote the petitioner herein as extension officer with effect from the date on which his juniors got promotion as Extension officer based on the seniority maintained in Category of Rural welfare officer Grade II/Junior Assistants with all monetary and other attendant benefits.

For Appellant : Mr.T.P.Prabhakaran

For Respondent : Mr.R.Ravichandran,A.G.P.

J U D G M E N T

(Judgment of the Court was delivered by A.SELVAM, J)

This Writ Appeal has been directed against the order dated 09.12.2010, passed in W.P.No.44099 of 2006, by the learned single Judge of this Court.

2. The appellant herein, as petitioner, has filed W.P.No.44099 of 2006, under Article 226 of the Constitution of India, praying to direct the respondent to consider his promotion to the post of Extension Officer from the date of his juniors got promotion.

3. It is averred in the petition that the petitioner has been initially appointed as Rural Welfare Officer Grade-II, on 16.2.1977 and subsequently on 26.7.1988 he has been promoted to the post of Assistant, subject to a condition that he should pass

departmental test on or before the date mentioned in the promotion order and the same has been challenged before the Honourable Supreme Court. The Honourable Supreme Court has fixed 04.05.1994 for passing the departmental test. But, the petitioner has actually passed departmental test on 16.8.1999. The respondent has failed to consider the petitioner to give necessary promotion to the post of Extension Officer. Under the said circumstances, the present petition has been filed for getting the relief sought therein.

4. The learned single Judge, after considering the rival contentions put forth on either side, has dismissed the writ petition. Against the dismissal order, the present writ appeal has been preferred, at the instance of the petitioner, as appellant.

5. The learned counsel appearing for the appellant/petitioner has simply reiterated the averments made in the petition and he mainly argued to the effect that even though the appellant/petitioner has passed departmental test on 16.8.1999, he has not been considered by the respondent for giving necessary promotion as Extension Officer. Under the said circumstances, W.P.No.44099 of 2006 has been filed. But the learned single Judge, without considering the nature of relief sought therein and also the fact that the petitioner has passed departmental test on 16.8.1999, has erroneously dismissed the writ petition and therefore, the order passed by the learned Single Judge, is liable to be set aside and W.P.No.44099 of 2006, is liable to be allowed.

6. In order to remonstrate the contention put forth on the side of the appellant/petitioner, the learned Additional Government Pleader has simply argued that the petitioner has been promoted to the post of Assistant on 26.7.1988, with a specific condition that he should pass departmental test within a specified date. But he has not done it. Further, the date mentioned in the promotional order has been challenged before the Honourable Supreme Court and the Honourable Supreme Court has specified 04.05.1994 for passing the departmental test. But the petitioner has passed departmental test only on 16.8.1999. Only on 16.8.1999 he has occupied necessary qualification for the post of Assistant and since he has not reached the zone of promotion to the post of Extension Officer, his name has not been considered and the learned single Judge, after considering the contentions put forth on the side of the respondent, has rightly dismissed the petition and therefore, the dismissal order passed by the learned Single Judge does not require any interference.

7. It is an admitted fact that the petitioner has been appointed as Rural Welfare Officer Grade-II on 16.2.1977. It is also equally an admitted fact that he has been promoted to the post of Assistant on 26.7.1998 with a specific condition that he should pass departmental test within the date mentioned therein and the same has been challenged before the Honourable Supreme Court and the Honourable Supreme Court has fixed the date as 04.05.1994 for passing the departmental test.

8. Despite of direction given by the Honourable Supreme Court, the petitioner has not passed the departmental test. But he has passed the same only on 16.8.1999. Therefore, as rightly pointed out on the side of the respondent, the petitioner has qualified for the post of Assistant only on 16.8.1999.

9. The relief sought in the writ petition is to give necessary direction to the respondent to promote the petitioner to the post of Extension Officer, since his juniors have already been promoted.

10. It has already been pointed out that the petitioner has been fully qualified for the post of Assistant only on 16.8.1999, the date on which he passed the departmental test. Since he has been fully qualified to the post of Assistant only on 16.8.1999, naturally his juniors, who are having necessary qualifications might have been promoted and the same cannot be a basis to grant the relief sought in the writ petition.

11. As stated earlier, the petitioner has passed departmental test on 16.8.1999 and since after 16.8.1999 he has not reached the zone of promotion to the post of Extension Officer, his name has not been considered. Under the said circumstances, the Court cannot direct the respondent to give necessary promotion to the petitioner, as prayed in the petition.

12. The learned single Judge, after considering the nature of contentions raised on either side, has rightly dismissed the petition. In view of the discussion made earlier, this Court has not found any valid force in the contention put forth on the side of the appellant. However, on the basis of the averments made in paragraph No.8 of the counter, the respondent can be directed to look into the request of the appellant/petitioner, as stated infra.

13. In fine, on the basis of the observation made in the penultimate paragraph of this order, this writ appeal is disposed of. The respondent is directed to look into the averments made in paragraph No.8 of the counter and pass necessary order, if the petitioner is otherwise eligible, within a period of six months from the date of receipt of a copy of this order. No costs.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

msk

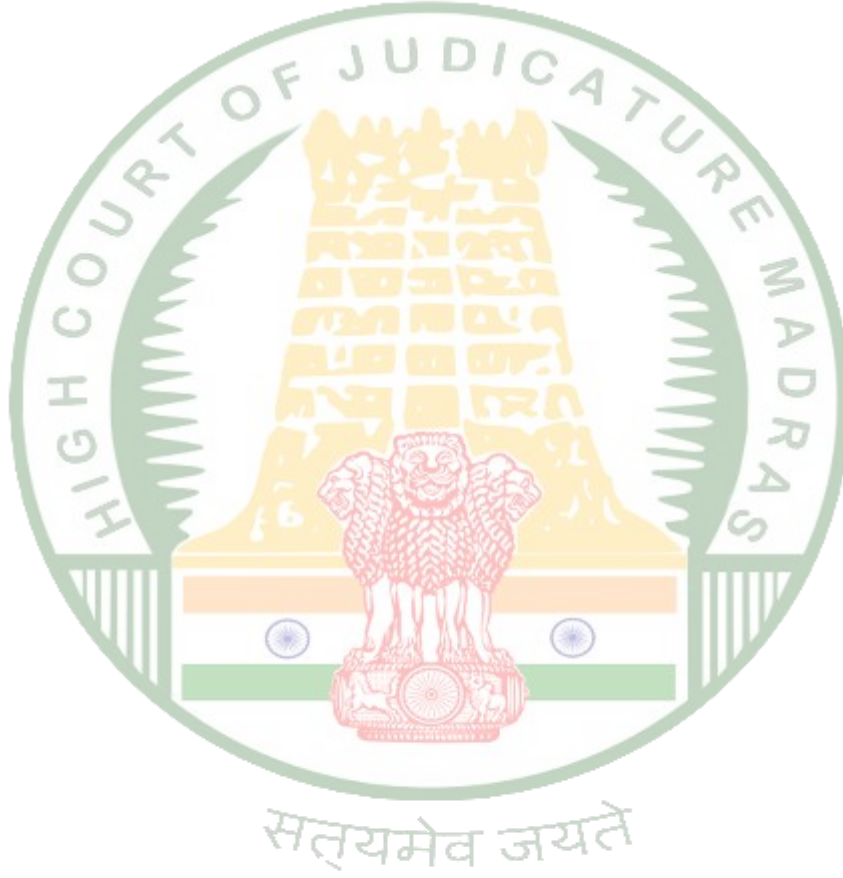
To

The District Collector,
Collectorate,
Cuddalore District.

1 cc to Mr.R.P. PRabakaran, Advocate, Sr. 31998
1 cc to Government Pleader, Sr. 31944

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