

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.Nos.1165 of 2017, 1460 & 1461 of 2016,
C.M.P.Nos.16209 of 2017
and
18211, 18212, 18239 & 18240 of 2016

W.A.No.1165 of 2017

- 1 The Government of Tamil Nadu
Rep. by its Secretary to Government
Rural Development Department
Fort St. George Chennai-600 009.
 - 2 The Commissioner of Rural Development
and Panchayat Raj
Panagal Building Saidapet Chennai-600 015.
 - 3 The District Collector
(PD Section) Salem District Salem.
- Appellants

Versus

M.Parivelan

Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 3.4.2017 passed in W.P.No.43299 of 2016 on the file of this court.

Prayer in W.P.No.43299 of 2016:

Calling for the records pertaining to G.O.G.O(3D) No.43 Rural Development and Panchayat Raj Department dated 09.12.2011 of the first respondent and consequential letter dated 15.07.2016 bearing Na.Ka. No.65903/2015 F2 of the second respondent and order bearing Na.Ka. No.15857/2015/Ni4 dated 16.08.2016 of the third respondent and quash the same in so far relates to not absorbing the petitioner as Assistant from the date of redeployment in Rural Development Department viz. 16.10.2001 and further direct the respondents to absorb the petitioner as Assistant from the date of redeployment in Rural Development Department viz. 16.10.2001 with all consequential benefits such as retrospective promotion pay benefits..

W.A.No.1460 of 2016

- 1 The State of Tamil Nadu
Rep. by its Secretary
Rural Development and Panchayat Raj
(E3) Department
Fort St. George Chennai-600 009.
- 2 The Commissioner,
Rural Development and Panchayat Raj
Panagal Building Saidapet Chennai-600 015.
- 3 The District Collector
Cuddalore District.

Appellants

Vs

- 1 M.Lakshmi
- 2 The Secretary,
Tamil Nadu Public Service Commission,
Commercial Tax Annexure Building,
No.1, Greams Road, Chennai-600 006.

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.3.2015 passed in W.P.No.27208 of 2012 on the file of this court.

Prayer in W.P.No.27208/2012:

Calling for the records relating to the order in G.O.(3D) No.43 Rural Development and Panchayat Raj Department dated 09.12.2011 and quash the same in so far as clause (b) and (e) is concerned and consequently direct the respondents to fix the seniority of the petitioner as Assistant as per the date of her initial appointment (14.03.1996) as Radio Supervisor and grant all attendant benefits and due promotions in accordance with the letter No.40725/PA4/98 dated 14.8.2000 of the 1st respondent and letter No.5466/CD-B2/2000 dated 6.7.2001 of the 4th respondent Tamil Nadu Public Service Commission and to Rule 35(b) of the Tamil Nadu State and Subordinate Services Rules Part-II General Rules.

W.A.No.1461 of 2016

- 1 The State of Tamil Nadu
Rep. by its Secretary
Rural Development and Panchayat Raj
(E3) Department Fort St. George Chennai-600 009.

2 The Commissioner,
Rural Development and Panchayat Raj
Panagal Building Saidapet Chennai-600 015.

3 The District Collector
Cuddalore District.

Appellants

Vs.

1 S. Sivagami

2 The Secretary,
Tamil Nadu Public Service Commission,
Commercial Tax Annexure Building,
No.1, Greams Road, Chennai-600 006.

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.3.2015 passed in W.P.No.27207 of 2012 on the file of this court.

Prayer in W.P.No.27207/2012:

Calling for the records relating to the order in G.O.(3D) No.43 Rural Development and Panchayat Raj Department dated 09.12.2011 and quash the same in so far as clause (b) and (e) is concerned and consequently direct the respondents to fix the seniority of the petitioner as Assistant as per the date of her initial appointment (17.11.1997) as Radio Supervisor and grant all attendant benefits and due promotions in accordance with the letter No.40725/PA4/98 dated 14.8.2000 of the 1st respondent and letter No.5466/CD-B2/2000 dated 6.7.2001 of the 4th respondent Tamil Nadu Public Service Commission and to Rule 35(b) of the Tamil Nadu State and Subordinate Services Rules Part-II General Rules.

For appellant: Mr.Venkataramani,
Additional Advocate General assisted by
Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For R1 in WA 1165/17: Mr.V.Suthakar
For R1 in WA 1460
and 1461 of 2016 : Mrs.AL.Gandhimathi
For R2 in WA 1460
and 1461 of 2016 : Mr.N.Devendran

COMMON JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties for some time.

2. The writ appeals have been filed challenging the orders passed by the learned Single Judge allowing the writ petitions and thereby setting aside the impugned orders insofar as class (b) and (e) are concerned and directing the appellants to refix the seniority of the writ petitioners from the date of their officiation as Assistant in the District Collectorate.

3. It appears that the writ petitioners, who had been selected by Tamil Nadu Public Service Commission as Radio Supervisors and had been working as such in the Tamil Nadu Local Administration and retrenched from service when the organisation was disbanded by the orders of the Government in G.O.Ms.No.229 Rural Development Department dated 30.8.2000, but, later, deployed by way of absorption vide G.O.(3D) No.43 Rural Development and Panchayat Raj Department by fixing their seniority after the existing list of Assistants, had moved the writ petitions seeking for their seniority and obtained orders in their favour.

4. The learned Additional Advocate General appearing for the appellants would submit that only on humanitarian grounds, the writ petitioners had been absorbed and if their seniority had to be fixed from the date of their officiation, it would unsettle the settled seniority among the existing Assistants and it would lead to much complications.

5. On going through the orders passed by the learned Single Judge, we find that the learned Single Judge has properly appreciated the fact that the writ petitioners had undergone certain selection process at the hands of Tamil Nadu Public Service Commission and some credence needs to be given to their past service as the present state of affairs had not arisen because of any fault on the part of the writ petitioners. Hence, we do not find any reason to interfere with the order passed by the learned Single Judge.

6. However, we find that the question of regularisation and fixation of seniority of the writ petitioners, from the date of their original appointment or from the date of absorption is a

moot question to be considered by the Government and a policy decision has to be taken which shall be done within a period of three months from the date of receipt of copy of this judgment. The writ appeals are disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

ssk.

To:

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 - 5 The Secretary,
Tamil Nadu Public Service Commission,
Commercial Tax Annexure Building,
No.1, Greams Road, Chennai-600 006.
- +1 CC to Mr.V. Suthakar, Advocate sr 81086.
+1 CC to Mr.M. Devendran, Advocate sr 81492.
+1 CC to Ms.A.L. Gandhimathi, Advocate sr 81439.
+1 cC to Govt. Pleader sr 81735.

W.A.Nos.1165 of 2017,
1460 & 1461 of 2016,

SP(13/12/2017)