

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2017

CORAM:

THE HONOURABLE Mr.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE Mr.JUSTICE G.JAYACHANDRAN

W.A No.766 of 2015

- 1.Secretary to Government,
Rural Development Department,
Government of Tamilnadu,
Fort St.George, Chennai -9.
- 2.The Director,
Rural Development and Panchayat Raj,
Panagal Building,
Saidapet, Chennai -15.
- 3.The District Collector,
Erode District, Erode. Appellants/Respondents

Vs

- 1.R.Natarajan
- 2.P.M.Moorthy
- 3.K.Vengatesan (Deceased)
- 4.K.Balakrishnan
- 5.V.Santha Respondents/Petitioners
(R5 substituted as legal heir of deceased R3 vide order
of Court dated 22.04.2015 made in M.P.No1 of 2015
in WASR.No.96586 of 2011)

Prayer:- Writ Appeal filed under clause 15 of the Letter Patent against the order dated 29.10.2010 made in W.P.No.25602 of 2009.

W.P.No.25602 of 2009 : Petition under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records of the third Respondent relating to the order in Roc.No.PA2/20413/2005 dated 09.09.2009 and quash the same in so far as it relates to the petitioners herein and further direct the respondents to notionally promote them as Typist Gr.I on completion of 18 years of service as Typist as per G.O.Ms.No.45 P & AR (P.3) Department, dated 15.02.1994 with all consequential benefits, such as arrears of pay, pension and other benefits.

For Appellants : Mr.V.Jayaprakash Narayanan

For Respondents : Mr.V.Suthakar
for R1, R2, R4 and R5

J U D G M E N T

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

The respondents were originally appointed as Typists at composite Coimbatore District, which was subsequently bifurcated as Erode. They worked as Typist by putting in more than 30 years of satisfactory service and they were also granted Selection Grade and Special Grade in the said post.

2. It appears that the Government have passed G.O.Ms.No.45, Personnel and Administrative Reforms Department, dated 15.02.1994, creating a new category of post, viz., Typist Grade I in the Tamil Nadu Ministerial Service and Tamil Nadu Judicial Ministerial Service. As per the said Government Order, persons, who are eligible to be posted in the created post of "Typist Grade I" shall be the Typists, who have put in 18 years of service as Typist and opted to remain in the typist line. Accordingly, the Head of Departments were requested by the Government to send separate proposals to the Government in the administrative department concerned for upgradation of required number of Typist posts as "Typist Grade I". It appears that the said Government Order was not communicated to the third appellant in respect of Erode District at appropriate time. Hence, the proposal with respect to the respondents, who were working in the Erode District, could not be sent to the Government in time. Ultimately, the first appellant passed an order in G.O.Ms.No.114, Rural Development Department dated 12.06.1995, upgrading the post of Typist as "Typist Grade I" in respect of 14 districts, excluding Erode and other districts, from which proposals were not received.

3. While so, the representation given by the respondents with regard to grant of notional appointment as Typist Gr.I was negatived by the appellants 2 and 3. Challenging the same, the respondents filed a writ petition in W.P.No.25602 of 2009. This Court, by order dated 29.10.2010 directed the first appellant to pass appropriate orders regarding the creation of the promoted Typist Grade I posts in Erode District and further directed the third appellant to confer on the respondents the benefits as given in G.O.Ms.No.45 dated 15.02.1994, including payment of arrears due to the respondents on such revision. Aggrieved by the order passed by the learned single Judge, the appellants are before this Court.

4. Heard the learned Special Government Pleader for the appellants and the learned counsel for the respondents.

5. The learned Special Government Pleader appearing for the appellants submitted that they are not challenging the Government Order in G.O.Ms.No.45 dated 15.02.1994 as such, and they have preferred this writ appeal as against the order

passed by the learned single Judge, directing them to consider the case of the respondents. The learned Special Government Pleader contended that the respondents have not given their consent to be in the Typist line and hence, they cannot later claim the post of Typist Grade I, that too after retirement from service. Hence, the order passed by the learned single Judge is liable to be set aside.

6. Per contra, the learned counsel for the respondents submitted that the learned single Judge has passed a well considered order and it does not call for interference and hence, prays for dismissal of the writ appeal.

7. It appears that the Government have issued G.O.Ms.No.45 dated 15.02.1994 creating a new category of post "Typist Grade - I", with a view to increase the avenue of promotion for persons working in the stagnated post of Typist for about 20 years. In this regard, the respondents have also given representations at the relevant point of time, requesting the petitioners to upgrade the post of Typist, which they were holding as Typist Grade - I. However, their request was rejected was rejected on the ground that proposals were not sent by the third appellant on time, non sending of the proposal by the third appellant, which was in fact explained to the effect that the Government Order was not communicated at the appropriate time. When there is no fault on the part of the respondents, the benefits conferred by the Government under the Government Order cannot be denied to the respondents, merely because they retired on attaining the age of superannuation. When once the respondents conformed to the requirement of putting 18 years of service as Typists eligible to be posted in the created post of Typist Grade -I, which is not disputed, there is no reason for the Government to deny the said benefit merely on the ground that the third appellant did not send the proposal on time or on the ground that in the meantime, the respondents have attained the age of superannuation. We are therefore of the view that the learned single Judge was correct in allowing the writ petition filed by the respondents. We do not find any ground to take a different view in the matter.

8. In the result, the writ appeal stands dismissed. The monetary benefits, including payment of arrears due to the respondents, as allowed by the learned single Judge, shall be paid to the respondents, within a period of three weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS III)

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To

1.The Secretary to Government,
Rural Development Department,
Government of Tamilnadu,
Fort St.George, Chennai -9.

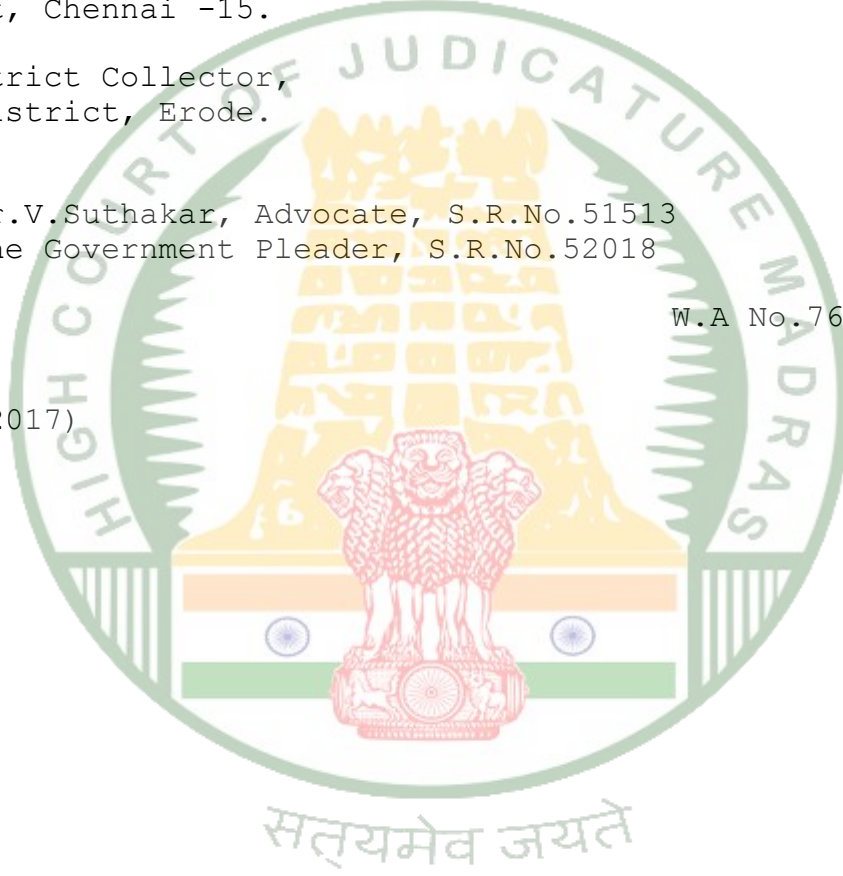
2.The Director,
Rural Development and Panchayat Raj,
Panagal Building,
Saidapet, Chennai -15.

3.The District Collector,
Erode District, Erode.

+lcc to Mr.V.Suthakar, Advocate, S.R.No.51513
+lcc to the Government Pleader, S.R.No.52018

W.A No.766 of 2015

BR(CO)
CA(13/09/2017)



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