

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No. 1220 of 2015

P.Thamaraiselvan

... Petitioner

Vs.

1. The District Collector,
Erode District, Erode.

2. R.Venkatachalam,
Deputy Block Development Officer,
Sathyamangalam Block,
Erode.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to place the petitioner over and above the second respondent in the cadre of Junior Assistant and also grant consequential notional benefits viz., retrospective promotion in the cadre of Assistant and Deputy Block Development Officer and grant higher pensionary benefits.

For Petitioner : Mr.V.Suthakar

For Respondents: Mr.S.Gunasekaran
Additional Government Pleader (For R1)

O R D E R

The relief sought for in this writ petition is for a direction to the first respondent to place the petitioner over and above the second respondent in the cadre of Junior Assistant and also grant consequential notional benefits viz., retrospective promotion in the cadre of Assistant and Deputy Block Development Officer and grant higher pensionary benefits.

2. The petitioner was appointed to the post of Watchman on 3.12.1974. Subsequently, he was appointed to the post of Office Assistant on 20.11.1986 and thereafter, he was promoted as Record Clerk on 25.05.1991 at Chennimalai Block.

3. The learned counsel appearing for the writ petitioner contended that the writ petitioner was promoted to the post of Junior Assistant by way of appointment by transfer on 24.09.1999, at Uthukudi Panchayat Union. For appointing the writ petitioner to the post of Junior Assistant the concurrence of the Tamil Nadu Public Service Commission was also obtained and accordingly, the petitioner underwent foundation training course at Bhavanisagar Government Institute on 30.08.2003 and completed the training on 18.10.2003. However, there is a delay in sending a proposal to the Government for seeking ratification in this regard. Meanwhile in the year 2005, the respondent published a seniority list in the post of Junior Assistant and the name of the petitioner was found in a serial no.864 and the name of the second respondent was found in a serial no.856.

4. The writ petitioner claims that he is senior to the second respondent and the seniority list was wrongly prepared. Based on such an erroneous seniority list, the writ petitioner was promoted as Assistant on 01.12.2006 and thereafter, to the post of Deputy Block Development Officer on 09.05.2013. However, the second respondent was promoted as Assistant in the year 2005 and further, he was promoted to the post of Block Development Officer in the year 2012.

5. The learned counsel appearing for petitioners contended that there is a delay in obtaining necessary orders of ratification from the Government for which the petitioner cannot be penalized. However, on perusal of the order of the District Collector, Erode dated 16.12.2014, it is seen that the seniority list was prepared long back and the application seeking for revision of seniority list was submitted by the writ petitioner only on 21.11.2014 and the same was returned by the District Collector, Erode.

6. The learned Additional Government Pleader appearing on behalf of the first respondent opposed the contention of the writ petitioner by stating that the Tentative Junior Assistant Inter seniority list for the post of Junior Assistant was released for the year 1999 by the Personal Assistant (Development) to Erode District Collector proceedings Roc.No.41905/2004(4)/N3 on 26.05.2005 and instructions were given showing that the aggrieved employees can submit their appeals within a period of 60 days. Though the list was published on 1.6.2005, the writ petitioner has not preferred any appeal thereafter. The appeal was filed only in the year 2014, after a lapse of 15 years, more so, after attaining the age of superannuation. The writ petitioner was retired from service on 31.5.2014 and the application was filed on 10.11.2014. Thus, the

application for revision of seniority list was preferred by the writ petitioner after his retirement. Even as per the Rule 35(F) of the Tamil Nadu State and Subordinate Services Rules, the application for revision of seniority of a person in a service, class, category or grade shall be submitted to the appointing authority within a period of three years from the date of appointment to such service, class, category or grade or within a period of three years from the date of order fixing the seniority, as the case may be. Any application received after the said period of three years shall be summarily rejected.

7. Such being the factum of this case, no adjudication is required to be undertaken on the grounds raised in this writ petition. Accordingly, the writ petition stands dismissed. However, there is no order as to costs.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

The District Collector,
Erode District, Erode.

+ 1 cc to M/s.V.Suthakar, Advocate, SR.58225
+ 1 cc to The Govt.Pleader, SR.58161

W.P.No. 1220 of 2015

BR(CO)
NR 08/09/2017

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