

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.9.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.18297 of 2011

G.Karuppaiyan

.. Petitioner

Vs.

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
St. Fort George,
Chennai-600 009.
2. The Director of Town Panchayat,
Kuralagam,
Chennai-600 108.
3. The District Collector,
Perambalur District,
Perambalur.
4. The Assistant Director of Town
Panchayats,
Tiruchirapalli Zone,
Tiruchirappalli.
5. John Joseph,
Junior Assistant Bill Collector,
Poolambadi Town Panchayat,
Poolambadi,
Perambalur District.
6. Mrs.K.Rani,
Junior Assistant,
Kurumbalur Town Panchayat,
Kurumbalur,
Perambalur District.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records relating to the order passed by the first respondent in G.O.Ms.No.82 dated 15.06.2011 and the

consequential order passed by the third respondent dated 06.07.2011 in Na.Ka.No.2970/2005/P2, and quash the same, so far as the petitioner is concerned and further direct the respondents 1 to 4 to promote the petitioner according to the seniority list dated 26.12.2006 in Na.Ka.No.2970/2005/P2 on the file of the third respondent with all benefits.

For Petitioner	.. Ms.T.Aananthi
For R1 to 4	.. Mr.R.A.S.Senthilvel, AGP
For R5 & 6	.. Mr.T.D.K.Govindarajan

ORDER

The petitioner has approached this Court seeking for the following relief:

"To issue a writ of certiorarified mandamus to call for the records relating to the order passed by the first respondent in G.O.Ms.No.82 dated 15.06.2011 and the consequential order passed by the third respondent dated 06.07.2011 in Na.Ka.No.2970/2005/P2, and quash the same, so far as the petitioner is concerned and further direct the respondents 1 to 4 to promote the petitioner according to the seniority List dated 26.12.2006 in Na.Ka.No.2970/2005/P2 on the file of the third respondent with all benefits".

2.The case of the petitioner is that he was entitled to promotion as Junior Assistant/Bill Collector on the basis of seniority from the year 2011. However, instead of him, the respondents 5 & 6 have been promoted vide G.O.No.82, Municipal Administration & Water Supply(Peru.1) Department dated 15.06.2011 and the consequential order was passed to that effect on 06.07.2011. Both the orders are under challenge before this Court.

3.The petitioner who was originally appointed as Over Head Tank Operator in the year 1989, was subsequently terminated from service, vide proceedings dated 17.10.1995. Challenging the termination order, the petitioner had filed the original application in O.A.No.6591 of 1995. The same has been transferred and renumbered as WP.No.6428 of 2006 and the same was allowed on 05.02.2007. In fact, when the petitioner moved this Court, the then Tamilnadu Administrative Tribunal, while admitting the application in O.A.No.6591 of 1995, granted an order of stay, based on which, the petitioner came to be reinstated in service on 10.11.1995. After abolition of Tribunal, the said application was transferred and filed before

this Court. This Court has allowed the writ petition, against which, an appeal was preferred in W.A.No.1006 of 2007. However, the Division Bench of this Court, vide order dated 01.08.2007, confirmed the order passed by the learned single Judge, by setting aside the order of termination dated 17.10.1995.

4.The case of the petitioner is that admittedly, he had been placed in No.1 position in the feeder category for promotion to the post of Junior Assistant/Bill Collector, but the respondents 5 & 6 came to be promoted, vide impugned orders overlooking the original claim. The seniority position of the petitioner herein has been admitted in the counter statement and the only reason sought for nonconsidering the promotion of the petitioner, was the pendency of the above said writ petition and the writ appeal before this Court. No other reason is stated or pleaded before this Court for denying the petitioner his due for promotion to the post of Junior Assistant/Bill Collector alongwith other Junior Assistants, who are the respondents 5 & 6 herein.

5. Upon notice, Mr.R.A.S.Senthilvel, learned Additional Government Pleader appearing for the respondents 1 to 4 has filed counter affidavit. He would submit that in view of the pendency of the writ petition, questioning his termination earlier, promotion was not granted to the petitioner, as administration was awaiting for the outcome of the writ petition.

6. Such plea on behalf of the respondents cannot be accepted, since the orders were passed by both the single Judge and the Division Bench of this Court in favour of the petitioner and the pendency of the litigation cannot be a reason. In any event, when the period of promotion is of the year 2011, in such event, the petitioner is entitled to be promoted as Junior Assistant/Bill Collector from the date when his juniors, namely the respondents 5 & 6, who were promoted, vide impugned Government orders. Since the petitioner has made out a case for allowing the writ petition, but however, considering the lapse of time, in view of the pendency of litigation before this Court, instead of setting aside the impugned orders, promoting the respondents 5 & 6, this Court directs the respondents to grant promotion to the petitioner to the post of Junior Assistant/Bill Collector without disturbing the promotion of the respondents 5 & 6 and the respondents are also directed to grant all attendant and consequential benefits to the petitioner on his promotion as Junior Assistant/Bill Collector, from the date of which, the juniors are promoted. Such exercise shall be completed within a period of three months from the date

of receipt of a copy of this order.

7.The writ petition is disposed of, with the above direction. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar
dn
To

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
St. Fort George,
Chennai-600 009.
2. The Director of Town Panchayat,
Kuralagam,
Chennai-600 108.
3. The District Collector,
Perambalur District,
Perambalur.
4. The Assistant Director of Town
Panchayats,
Tiruchirapalli Zone,
Tiruchirappalli.

+1cc to Ms.T.Aananthi, Advocate, S.R.No.65943
+1cc to the Government Pleader, S.R.No.67589

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CS/23/10/17