



(In both Writ Appeals)
For Appellants

: Mr.S.Chandrasekar,
Government Advocate

For Respondents

: Mr.R.Gowrishankar

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COMMON JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J.]

Since the issue involved in both the writ appeals is one and the same, both the writ appeals are disposed of by way of this common judgment.

2. Both these writ appeals have been filed by the State against the common order passed by the learned single Judge in W.P (MD)Nos.4620 and 4621 of 2011, directing the appellants to take appropriate steps to fix the seniority of the respondents treating their service as regular right from the date of their original appointment and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of that order. Since the respondent in W.A (MD)No.279 of 2011 has retired from service, the learned single Judge has given a direction to pass necessary orders giving notional promotion to him.

3. The brief facts of the case are as follows:

(i) The respondent in W.A(MD)No.278 of 2015/writ petitioner in W.P(MD)No.4620 of 2011 was appointed as Record Clerk on 18.06.1981. Thereafter, he was appointed as Junior Assistant on 25.01.1991 and thereafter as Assistant in the year 1996 and as Extension Officer/Deputy Block Development Officer on 30.03.2007 and presently, he is working as Deputy Block Development Officer (Noonmeal) at R.S.Mangalam Panchayat Union, Ramnad District. Whereas respondent in W.A(MD)No.279 of 2015 is concerned, he was appointed as Record Clerk on 24.09.1982. Subsequently, he was appointed as Junior Assistant on 25.01.1991, as Assistant on 29.07.1996 and thereafter, as Extension Officer/Deputy Block Development Officer on 23.03.2007 and thereafter, as Deputy Block Development Officer(Scheme), Muthukulathur Panchayat Union, Ramnad District and subsequently, he retired from service on reaching the age of superannuation.

(ii) The grievance of both the respondents is that as per G.O.Ms.No.585 RD & LA, dated 12.04.1984 and G.O.Ms.No.349 P & AR Department, dated 12.04.1984,, the Record Clerks, who completed five years of service and possessed minimum general educational qualification, ought to have been given promotion to the Post of Junior Assistant as against 10% of vacancies reserved for the Record Clerks from the year 1984. Insofar as Madurai, Sivagangai, Thanjavur and in all other Districts, the above referred



Government Orders were followed, but in Ramanathapuram Districts, where the respondents were working the above said Government Orders were not followed and Record Clerks were not given promotion from 1984 to 1990 even though vacancies were available. Later on, in the year 1990, G.O.Ms.No.963 Rural Development Department, dated 25.11.1990 was issued stating that the Record Clerks appointed to the Post of Junior Assistant upto 01.04.1990 shall take their seniority from the date of their appointment in the Post of Junior Assistant and issued guidelines to fill up the vacancies of Junior Assistant from Record Clerk after 01.04.1990. After the said Government Order only, the petitioners were given promotion as Junior Assistant on 25.01.1991 and they were given seniority in the category of Junior Assistant as Serial Nos.661 and 665 respectively. According to the respondents, It is purely on fault on the part of the third respondent in not giving effect to G.O.No.585 RD & LA, dated 12.04.1984 and by which 10% of vacancies in the post of Junior Assistant were reserved for Record Clerk from the year 1984. If the said Government Order were followed, the respondent in W.A(MD)No.278 of 2015 would have got promotion as Junior Assistant in the year and Assistant in year 1989, as Extension Officer/Deputy Block Development Officer in the year 2005 and as Block Development Officer in the year 2008. Whereas the respondent in W.A(MD)No.279 of 2015 would have got promotion as Junior Assistant in the year 1987 and Assistant in year 1992, as Extension Officer/Deputy Block Development Officer in the year 2008. Thus mistake was committed by the respondents in not following the above referred Government Orders. Hence, they have filed the Writ Petitions before this Court.

(ii) The learned single Judge, by relying upon the dictum laid down in the judgment in R.Sannasi and another v. the Director of Rural Development and 11 others (W.P.Nos.29408 and 29940 of 2003), decided on 26.10.2006, allowed the Writ Petitions.

4. Now, challenging the same, the present writ appeals have been filed by the State.

5. The learned counsel for the appellants submitted that the respondents have made the claim for revised seniority after one decade, which is against Rule 35(f) of State and Subordinate Service Rules and moreover, as per G.O.(Ms)No.208, dated 20.03.1986, the Record Clerks had to appear for a separate examination to be conducted for the purpose of filling up of the vacancies reserved for them in the post of Junior Assistant and thereafter, relaxation for appearance of separate examination was ordered by G.O.Ms.No.963 Rural Development & Panchayat Raj Department, on 28.11.1990 only, therefore, retrospective promotion prior to 1991, does not arise. <https://hdc.mca.gov.in/tse> respondents were not appointed by the Tamil Nadu Public Service Commission and hence, the order passed by the learned single Judge is liable to be set aside.



6. The learned counsel appearing for the respondents submitted that the order of the learned Single Judge is just and proper and does not warrant interference by this Court.

7. Heard the submissions made on either side and perused the materials available on record.

8. We find that this Court in an identical situation in W.P.Nos.29408 and 29940 of 2003 has already decided the issue and granted the relief sought for therein and following the same only, this Court has passed an order. When an identical issue, the relief was granted to the similarly placed persons, by discriminating the respondents/writ petitioners, the relief cannot be denied.

9. Therefore, We do not find any infirmity in the order passed by the learned Single Judge and hence, these Writ Appeals are dismissed and the order of the learned single Judge, dated 25.03.2014, is hereby confirmed. The appellants are directed to implement the above said order within a period of six weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The Principal Secretary,
Government of Tamil Nadu,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai - 600 009.
- 2.The Director of Rural Development Department,
Panagal Buildings, Saidapet, Chennai - 600 015.
- 3.The District Collector,
Ramanathapuram District, Ramanathapuram.

+2cc to Mr.R.Gowrishankar, Advocate SR.No.2947

+1cc to special Government Pleader Sr.NO.3054

pm

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