



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **21.12.2017**

CORAM:

THE HONOURABLE MRS. JUSTICE **V. BHAVANI SUBBAROYAN**

WEB COPY

W.P (MD) No. 16966 of 2014

V. Subramaniyan

... Petitioner

Vs.

1. The State of Tamil Nadu

Represented by its Secretary to Government,
Agricultural Department,
Secretariat, Chennai-9.

2. The Commissioner,

Agricultural Marketing and Agri-Business Department,
Guindy, Chennai-32.

3. The Secretary,

O/o. Regulated Market Committee,
No. 105, Madurai Road,
Virudhunagar, Virudhunagar District.

4. The Secretary,

O/o. Regulated Market Committee,
Pudukkottai, Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the second respondent to consider the representation dated 27.09.2014 seeking promotion to the post of Junior Assistant taking into account of my qualification and seniority and also taking 32 years of unblemished service in the Cadre of Office Assistant within the period that may be stipulated by this Court.

For Petitioner : Mr. C. Venkatesh Kumar
for M/s. Ajmal Associates

For Respondents : Mr. V. Muruganantham
Additional Government Pleader

ORDER

This writ petition has been filed, seeking to issue a Writ of Mandamus, directing the second respondent to consider the petitioner representation dated 27.09.2014, seeking promotion to the post of Junior Assistant taking into account of the qualification and the seniority and also taking 32 years of unblemished service in the Cadre of Office Assistant.



2.The learned counsel for the petitioner would submit that the petitioner was appointed as Office Assistant on 31.03.1982 at Regulated Market, Aavudayar Kovil, Pudukkottai District and his service has been regularized on 07.12.1995. Further, he submits that the post of Office Assistant was the feeder category to the post of Junior Assistant by virtue of G.O.Ms.No.43, P & AR Department, dated 15.02.1994. As per the Tamil Nadu Ministerial Service Rules, for promotion to the post of Junior Assistant, the candidate should pass the Department Tests for Agricultural Marketing and Agri-Business Department and District Office Manual Test. Since the petitioner has passed the departmental test during 1985, itself and he was eligible for promotion to the post of Junior Assistant.

3.Further, he submits that the Secretary of the Regulated Marketing Committee, Pudukkottai District by his proceedings Na.Ka.No.1706/A2/2009, dated 16.04.2009 published the panel of Office Assistants, but the petitioner was not considered for promotion. The petitioner has been transferred from the office of the Regulated Market Committee, Pudukkottai District, Pudukkottai to the office of The Regulated Market Committee, Virudhunagar District, Virudhunagar on 07.12.1995. The petitioner has not get any promotion, hence he has approached this Court.

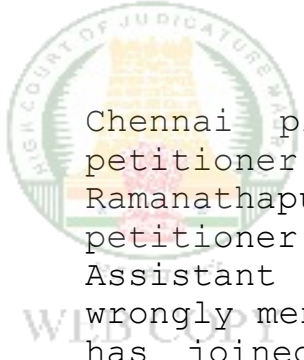
4.The learned Additional Government Pleader appearing for the respondents would submit that the petitioner had suffered the following punishment:-

(i) As per the proceedings of Secretary, Pudukottai Market Committee No.A/3695/94, dated 13.11.1996, the petitioner was suspended from service for the period of 12.06.1992 to 31.08.1992. (Service Book Page No.41 of Volume 1)

(ii) As per the proceedings of Secretary, Pudukottai Market Committee No.A/13786/91, dated 27.07.1994, the petitioner's increment was stopped for six months without cumulative effect (Service book Page No.35 of Volume I).

(iii) And also proceedings No.6459/B/2001, dated 09.03.2004 increment was stopped for three months with cumulative effect. (Service Book Page No.17 of Volume II).

5.Further, he submits that according to proceedings No.1706/A2/2009, dated 16.04.2009 of Secretary, Pudukottai Market Committee, the petitioner positioned in third place in the panel list as on 01.04.2009 and not promoted due to the non-availability of vacancy up to 30.06.2011. This fact was intimated to this Office by the Secretary, Pudukottai Market Committee as per the letter No.3564/A/2014, dated 17.10.2014. Further, he submits that according to Director, Agricultural Marketing and Agri-Business,



Chennai proceedings No.MCE.3/4924/2011, dated 17.06.2011, the petitioner transferred from Pudukottai Market Committee to Ramanathapuram Market Committee, on the condition of the petitioner that his seniority would be placed Junior most Office Assistant of Ramanathapuram Market Committee. The petitioner wrongly mentioned as his seniority, placed next to R.Mohanraj, who has joined as Office Assistant on 03.05.1980 and he was not qualified for the post of Junior Assistant. One watchman, namely, A.Sekar, was transferred from Agriculture Department on 11.06.2005 and promoted as Office Assistant on 13.05.2010 in Ramanathapuram Market Committee. But the petitioner has joined as Office Assistant in Ramanathapuram Market Committee on 03.07.2011. Hence, the seniority was fixed by the third respondent as per proceedings No.A2/876/2011, dated 30.06.2011, below A.Sekar, Office Assistant, Ramanathapuram Market Committee not in Mr.R.Mohanraj, Office Assistant.

6.Further, the learned Additional Government Pleader submits that the petitioner would be considered for the post of Junior Assistant promotion in 2014-2015 panel as per the seniority and his qualification.

7.Hence, this Court directs the second, third and fourth respondents to consider the representation of the petitioner and if he is otherwise eligible for the said promotion in the future vacancies if any arises as per the prevailing rules and laws.

8.With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

SSS

To

1.The Secretary to Government,
State of Tamil Nadu
Agricultural Department,
Secretariat, Chennai-9.

2.The Commissioner,
Agricultural Marketing and Agri-Business Department,
Guindy, Chennai-32.

3.The Secretary,
Ramanathapuram Market Committee,
No.105, Madurai Road,
Virudhunagar, Virudhunagar District.



4.The Secretary,
O/o. Regulated Market Committee,
Pudukkottai, Pudukkottai District.

+1 cc to M/S.AJMAL ASSOCIATES, Advocate SR.No.94054
+1 cc to Special Government Pleader SR.No.94854

ORDER MADE IN
W.P (MD) No. 16966 of 2014
21.12.2017

SMA/SV-MMS/SAR-4/05.01.2017:4P/7c