



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.08.2017

CORAM :

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**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.A(MD)No.1089 of 2017
and
C.M.P(MD)No.7496 of 2017

1. The Secretary to Government,
Rural Development & Panchayat
Raj Department,
Secretariat, Chennai.

2. Director,
Rural Development & Panchayat
Raj Department,
4th Floor, Panagal Building,
Saidapet, Chennai-600 015.

3. The District Collector,
Trichy.

... Appellants

Vs.

1. M.Sivashanmuga Prakasam

2. The Secretary,
Tamil Nadu Public Service Commission,
Chennai.

... Respondent

Prayer : This Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order passed by this Court in WP(MD)No.7718 of 2013 dated 15.02.2017 and allow the same.

Prayer in WP(MD). 7718/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of certiorarified mandamus or any other appropriate writ thereby call for the records of the 1st respondent in letter No.16105/Pa.A7/2011-6 dated 03.10.2011 and quash the same as arbitrary, capricious and illegal and consequently direct the respondents to grant notional promotion as per the recommendation of the 2nd respondent in Na.Ka.No.3845/2001/A2 dated 31.03.2001 and grant attendant monetary and other benefits to the petitioner and pass such further or other orders as this Honourable Court deems fit and proper in the circumstances of the case.



For Appellants
For Respondent

: Mr.T.S.Md.Mohideen, AGP
: Mr.P.Ganapathi Subramanian for R1

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JUDGMENT

(Judgment of the Court was made by G.R.SWAMINATHAN, J.)

This writ appeal is directed against the order dated 15.02.2017 made in WP(MD)No.7718 of 2013 filed by the respondent herein.

2.Grievance of the writ petitioner was that even though he was regularised as Panchayat Assistant as early as on 29.12.1990 and Government also passed orders holding that Panchayat Assistants are eligible to be promoted as Junior Assistants at 10% of the estimated vacancy of every year, the writ petitioner was not promoted. He therefore represented to the authorities. But, his request was rejected. Hence, he filed the present writ petition. The learned Judge disposed of the writ petition with the following directions.

"13.In the result :

a) this writ petition is disposed of with a direction to the 4th respondent/Secretary, TNPSC, Chennai to pass orders on the Government Letter No.16105/Pa.A7/2011-6 dated 03.10.2011 sent by the first respondent and to pass orders within a period of 8 weeks from the date of receipt of a copy of this order ;

b) further the 1st respondent is directed to pass appropriate orders on receipt of the reply from the TNPSC/4th respondent herein within a period of 8 weeks thereafter, for giving notional promotion with all attending, monetary and other benefits to the petitioner. No costs.

Aggrieved by the same, the present writ appeal has been filed.

3.Heard the learned Additional Government Pleader for the appellants and the learned counsel for the first respondent.

4.It was contended on the side of the appellants that the writ petitioner/respondent retired from service on 28.02.2011 in the cadre of Panchayat Clerk and that therefore giving notional promotion and corresponding monetary benefits when he had not worked even for one day in the promotional post will not be justified. In these circumstances, we deem it fit and appropriate that the order passed by the learned single Judge ought to be modified with a direction to the second respondent herein to pass orders on the Government letter dated 03.10.2011.

5. This Court is of the view that giving a positive direction to the Government for giving notional promotion with all attendant, monetary benefits to the writ petitioner is not proper. In other words, the operative portion of the order made in WP(MD)No.7718 of



2013 is modified by retaining Paragraph No.13(a) thereof and setting aside Paragraph No.13(b).

6. This writ appeal is partly allowed as indicated. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Rural Development & Panchayat
Raj Department,
Secretariat, Chennai.
 2. The Director,
Rural Development & Panchayat
Raj Department,
4th Floor, Panagal Building,
Saidapet, Chennai-600 015.
 3. The District Collector,
Trichy.
 4. The Secretary,
Tamil Nadu Public Service Commission,
Chennai.
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 74684
+ 1 CC TO Mr.P.GANAPATHY SUBRAMANIAN, ADVOCATE IN SR No. 74864

SKM/ARUL

TE/SV-MMS/SAR-II : 07/09/2017 : 3P/7C

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23.08.2017