



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 08.08.2017**

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN**

**and**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.A(MD)No.410 of 2017**

S.Sezhian

... Appellant

Vs.

1.The Government of Tamil Nadu,

Rep.by its Secretary,

Department of Rural Development and Panchayat Administration,  
Fort St. George, Chennai-9.

2.The Director,

Directorate of Rural Development and Panchayat Administration,  
Saidapet, Chennai-15.

3.The District Collector,

Sivagangai District,

Sivagangai.

... Respondents

PRAYER: This Writ Appeal is filed under Clause 15 of Letters Patent, pleased to set aside the order in WP(MD)No.3219 of 2007 dated 02.03.2012 on the file of this Court.

Prayer in WP(MD). 3219/ 2007 :

To issue a Writ of Certiorari mandamus, calling for the records pertaining to the impugned order in Na.ka.P3/8140/2006 dated 16/02/2007 on the file of the respondent no. 23 and quash the same as illegal and consequentially direct the respondent no. 3 to grant promotion to the petitioner as Assistant with all consequential service benefits since 1999.

For Appellant : Mr.T.Lajapathi Roy

For Respondent : Mr.T.S.Md.Mohideen, AGP

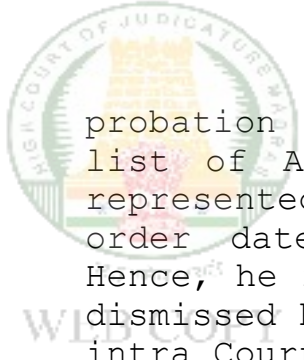
**J U D G M E N T**

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**[Judgment of the Court was made by G.R.SWAMINATHAN, J.]**

The unsuccessful writ petitioner is on appeal challenging the order dated 02.03.2012 made in WP(MD)No.3219 of 2007.

2.According to the appellant, he was appointed as Junior Assistant on 03.04.1996. He passed all the departmental examinations on 31.12.1997. He was also completed the Bavani Sagar Basic Training on 21.02.2000. He also served as Second Grade Rural Welfare Officer. He completed the period of



probation on 03.04.1998. But his name was not included in the list of Assistants in the year 1999. The writ petitioner represented in this regard. But his request was rejected by order dated 16.02.2007 by the District Collector, Sivagangai. Hence, he filed WP(MD)No.3219 of 2007. The said writ petition was dismissed by order dated 02.03.2012. Aggrieved by the same, this intra Court appeal has been filed.

3.The stand of the department is that one of the eligibility requirement for being promoted to the post of Assistants is that the candidate should have also served for one year period in the category of Rural Welfare Officer. Since on the crucial date ie., 15.03.1999, the writ petitioner had not put in one year period in the said category of Rural Welfare Officer (Grade-II), he was not included. This stand of the respondents is patently unreasonable. It is a matter of record that the said post of Rural Welfare Officer was abolished with effect from 09.06.1997. It was created once again only by virtue of G.O.Ms.No.249, Rural Development (ES) Department, dated 24.11.1998. Since the crucial date was 15.03.1999, in this case, even if the writ petitioner had been posted Rural Welfare Officer on 24.11.1998 he would still not have secured the eligibility period of one year. Since the very post of Rural Welfare Officer, (Grade-II) was not available, eligibility requirement of serving in the post should be deemed to have been waived. Law does not expect anyone to fulfil the conditions that are inherently impossible. If the said post had been in existence and it was possible to serve in the said post for one year prior to crucial date and if for certain reasons the writ petitioner did not do so, then he could have been denied empanelment in the year 1999 for the post of Assistant. But that is not the case. The post itself stood abolished between 09.06.1997 and 24.11.1998.

4.Therefore, not including the writ petitioner in the promotion panel for the year 1999 on the ground that he had not served for one year in the category of Rural Welfare Officer (Grade-II), when it was impossible to fulfil such a eligibility requirement is clearly illegal.

5.In this view of the matter, the order dated 02.03.2012 made in WP(MD)No.3219 of 2007 is set aside. The third respondent is directed to grant promotion to the petitioner as Assistant with all consequential benefits since 1999. The writ petitioner is entitled to the relief sought for in WP(MD)No.3219 of 2007. The order dated 16.02.2007 in Na.Ka.P3/3140/2006 passed by the third respondent is quashed. This writ appeal is accordingly allowed. No costs.

Sd/-

Assistant Registrar(crl side)



TO

1.The Secretary,  
Department of Rural Development and Panchayat Administration,  
Fort St. George, Chennai-9.

2.The Director,  
Directorate of Rural Development and Panchayat Administration,  
Saidapet, Chennai-15.

3.The District Collector,  
Sivagangai District,  
Sivagangai.

+1cc to M/S.T.LAJAPATHI ROY, Advocate SR.No.71626

+1cc to Special Government Pleader, SR.No. 71695

*Skm / Arul*

*MAS/KK/SAR2:19.09.2017:3P-6C*

**W.A(MD) No.410 of 2017**  
**08.08.2017**