



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.08.2017

CORAM :

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

W.A(MD)No.1006 of 2016

G.Sonaimuthu

... 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 allow this writ appeal and set aside the order in WP(MD)No.2281 of 2007 dated 02.03.2012 on the file of this Court.

Prayer in WP(MD). 2281/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandaus, calling for the records pertaining to the impugned order in na.Ka.No. 62726/05/C3 Dated 07//11/2006 on the file of the espondnet No. 2 and quashs the same as illegal and consequentially direct the respndent no. 2 to grant promotion to the petitioner as an assistant with all consequential service benefits since 1999.

For Appellant : Mr.T.Lajapathi Roy

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

**JUDGMENT**

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

The unsuccessful writ petitioner is on appeal challenging the order dated 02.03.2012 dismissing the WP(MD)No.2281 of 2007.

2.The writ petitioner was appointed as a Junior Assistant in the year 1996. The next promotional post is that of Assistant. To be eligible for being promoted as an Assistant, one should have served as Rural Welfare Officer. But the said post was not in existence during 1996 to 1998. On the ground of non possessing the said service qualification, the writ petitioner was not included in the list of Assistants in the year 1999. In the very nature of things, the writ petitioner could not have acquired the said service qualification. Yet his request for inclusion in the list for Assistants in the year 1999 was rejected by the impugned order dated 07.11.2006 issued by the second respondent. The same was challenged by filing WP(MD)No.2281 of 2007. The learned Judge dismissed the writ petition. Aggrieved by the same, the present writ appeal has been filed.

3.The learned counsel appearing for the writ petitioner brought to our attention the decision of the learned Single Judge of this Court reported in **(2012) 1 MLJ 634 S.Sasisivanandam vs. District Collector, Thoothukudi District and another.** This Court after referring to earlier authorities held that the employee cannot be blamed for non-possession of the said service qualification and that he cannot be denied the benefit of inclusion in the promotion panel. We approved the said view while allowing WA(MD)No.410 of 2017 dated 08.08.2017 filed by a similarly placed employee. The facts of this writ appeal are similar.

4.We therefore set aside the order dated 02.03.2012 dismissing WP(MD)No.2281 of 2007. The second respondent is directed to grant promotion to the appellant herein as Assistant with all consequential service benefits by notionally including him in the 1999 panel of Assistants. This writ appeal stands allowed. No costs.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar



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.

+ 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 75594
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 76052

SKM/ARUL

TE/MR-KKR/SAR-IV : 05/10/2017 : 3P/6C

W.A(MD)No.1006 of 2016
30.08.2017