



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2017

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THE HONOURABLE MR. JUSTICE T. RAJA

W.P. (MD) No. 16673 of 2017

S. Sundaravadivel

: Petitioner

Vs.

1. The District Collector,
Dindigul District.2. The Block Development Officer,
Block Panchayat,
Vatlagundu,
Dindigul District.3. M. Bhuvaneshwari
Zonal Deputy Block Development Officer,
Paanchayat Union,
Vedasandhur,
Dindigul District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent herein to fix a seniority of the petitioner in accordance with the rule 20 (b) of the Tamil Nadu Ministerial Service Rules, by placing the name of the petitioner in the seniority list of the Junior Assistant and Assistant, above M. Bhuvaneshwari, the third respondent herein in the place of Thavaraja in Sl.No.173 and Sl.No.331-A, in the seniority list of Junior Assistant and Assistant respectively and consequently give further promotion to the petitioner as Deputy Block Development Officer with effect from the date on which the petitioner's juniors got promotion along with all service and monetary benefits.

For Petitioner

: Mr. K. Balasubramanian

For Respondents
R1 & R2: Mr. D. Muruganantham
Additional Government Pleader**O R D E R**

By consent of both parties, the writ petition itself is taken up for final disposal.

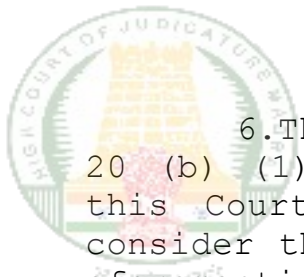


2.The petitioner was selected to the post of Junior Assistant by the Tamil Nadu Public Service Commission, through Special Competitive Examination conducted in the year 2007 and posted in Periyakulam Panchayat Union vide proceedings of the first respondent in Na.Ka.No.18913/2009 Ua.Va.1, dated 20.05.2009, and the petitioner also joined duty on 25.05.2009. In the same selection, Mr.Thavaraja, hailing from Bodinayakanur, Theni District, was also selected and posted as Junior Assistant in Vatlakundu Panchayat Union and he joined duty on 28.05.2009.

3.Both Mr.Thavaraja, and the petitioner made requests for mutual transfer. Considering the request for mutual transfer of both Mr.Thavaraja, and the petitioner, the Director of Municipal Administration, Chennai issued proceedings in Na.Ka.No.91330/2010/B1 dated 20.12.2010, accepting the request for mutual transfer. Later the first respondent issued proceedings in Na.Ka.No.8115/2010/Ua.Va.1 dated 17.02.2011, relieving Mr.Thavaraja, from Dindigul District. Further, the first respondent passed another proceedings in Na.Ka.No.8115/2010/Ua.Va1 (2) dated 23.02.2011, absorbing the petitioner to Dindigul District. Accordingly, the petitioner joined duty at Vatlakundu Panchayat Union on 04.03.2011.

4.The learned counsel for the petitioner submitted that Mr.Thavaraja, was rightly placed in the seniority enjoyed by the petitioner as per Rule 20 (b) (1) of the Tamil Nadu Ministerial Service Rules, and was placed at Sl.No.173 of the seniority list, but, the petitioner was not given the benefit of the said Rule who was placed at Sl.No.214 in the seniority list. Therefore, he has given a representation to the respondents on 28.09.2012. Ignoring the petitioner's representation, his seniority was not changed instead, the seniority of one Mr.Balasubramanian, was changed from 261 to 213 (A) in the seniority list, placing the petitioner below Mr.Balasubramanian, in Sl.No.214, in the cadre of Junior Assistant.

5.Assailing the said change in the seniority list, the petitioner made various appeals to the respondents to place him in proper place namely in the place of Mr.Thavaraja. The second respondent forwarded his representation to the first respondent in his letter bearing Na.Ka.No.2336/12/A1, dated 03.10.2012 to consider the grievance of the petitioner. Till date, the first respondent has not taken any steps to rectify his mistake by fixing the the petitioner's seniority in the place of Mr.Thavaraja. Lateron, in the year 2014, another seniority list also was released assigning the petitioner at Sl.No.214 in spite of his pending appeal. Therefore, the petitioner made another appeal to the second respondent on 01.09.2014. But, the ~~respondent~~ ^{respondent} did not come forward to pass any order. Hence, the petitioner has come to this Court with the present writ petition.



6.The learned counsel for the petitioner referring to Rule 20 (b) (1) of the Tamil Nadu Ministerial Service Rules, pleaded this Court for granting an order directing the respondents to consider the representations of the petitioner in the light of the aforementioned rule.

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7.The learned Additional Government Pleader appearing for the respondents would submit that if it is a case of mutual transfer of Mr.Thavaraja and the petitioner, the case of the petitioner would be considered in the light of Rule 20 (b) (1) of the Tamil Nadu Ministerial Service Rules.

8.In the instant case, since Mr.Thavaraja, was serving as a Junior Assistant in Vatlakundu Panchayat Union from 28.05.2009 and the petitioner was working as Junior Assistant in Periyakulam Panchayat Union from 25.05.2009, they both made requests for mutual transfer before the Director of Municipal Administration, Chennai, who vide his proceedings in Na.Ka.No.91330/2010/B1 dated 20.12.2010, accepted their requests for mutual transfer. Subsequently, the Director of Municipal Administration, Chennai rightly relieved Mr.Thavaraja, from Dindigul district and placed him in the place occupied by the petitioner in the seniority list. Whereas the petitioner was not placed in the place of Mr.Thavaraja, in the seniority list. At this stage it is relevant to extract Rule 20 (b) (1) of the Tamil Nadu Ministerial Service Rules, which reads as follows:

"20 (b): The grounds of administrative necessity referred to in sub-rule (a) may be presumed to exist and the Commission's consent referred to in that sub-rule may be presumed to have given in the case of mutual transfers permanently from an office in one departmental unit to an office in another departmental unit if the persons desiring mutual transfers agree--

(i) that the senior among the Assistants/Junior Assistants mutually transferred (on the basis of the date of their first appointment to the service) be given the same rank in the departmental unit to which he is transferred, which was held by the person in whose place he comes to that departmental unit and the junior of them, takes his rank in the administrative unit of the departmental unit to which he is transferred with reference to the date of his first appointment in the service."

9.Hence, the first respondent who is seized of the representation of the petitioner, aforementioned is hereby
<https://hcservicesetools.gov.in/hcservices> consider the same in the light of the aforementioned Rule, within a period of four weeks from the date of receipt of a copy of this order.



10. The Writ Petition stands disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(crl side)

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/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Dindigul District.
2. The Block Development Officer,
Block Panchayat,
Vatlagundu,
Dindigul District.

+1cc to Spl.Government Pleader Sr.No.76850

+1cc to Mr.K.Balasubramanian, Advocate Sr.No.77208

MR/MRN

VB/GT/SAR2/03/11/2017/4P/5C

W.P. (MD) No.16673 of 2017

05.09.2017