

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.01.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.1230 of 2018 and
WMP.Nos.1536 and 1537/2018

A.Dhanabal

...Petitioner

Versus

1. The Government of Tamil Nadu
rep. by Principal Secretary to Government,
Rural Development and Panchayat Raj
Department, Secretariat, Chennai-9.
2. The Director of Rural Development and
Panchayat Raj Department,
Chennai-15.
3. The District Collector,
Namakkal District,
Namakkal.
4. The Personnel Assistant to
District Collector (Development),
Collectorate, Namakkal.

.... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the Order in Na.Ka.No.89321/2017/C1 dated 7.12.2017 and Na.Ka.No.Ni2/20452/2017 dated 29.12.2017 of the 3rd respondent and to quash the same and to issue consequential directions to the respondents not to disturb the Selection Grade Scale of Pay granted to the petitioner in the post of Deputy Block Development Officer w.e.f. 12.4.2017.

For Petitioner : Mr.M.Ravi
For Respondents : Mr.V.Kadhirvelu
Special Government Pleader

O R D E R

Challenging the Order of the 2nd respondent in Na.Ka.No.89321/2017/C1 dated 7.12.2017 and the Proceedings of the 3rd respondent in Na.Ka.No.Ni2/20452/2017 dated 29.12.2017, the present Writ Petition has been filed.

2. Learned Counsel for the petitioner submitted that the petitioner was initially joined service on 18.11.1994 as Junior Assistant through the Tamil Nadu Public Service Commission in Namakkal District Rural Development Unit. After completion of probation in that post, subsequently, he was promoted as Assistant w.e.f. 05.11.1997 A.N. and his service was also regularised in that post w.e.f. 6.12.1997 F.N. He was further promoted as Extension Officer w.e.f. 13.4.2007. The post of Extension Officer was subsequently redesignated and upgraded as Deputy Block Development Officer as per G.O.Ms.No.138, Rural Development and Panchayat Raj Department, dated 28.8.2008 and the post of Extension Officer was abolished. The petitioner continues to work as Extension Officer in the upgraded post of Deputy Block Development Officer, from 28.8.2008. As the said redesignation was not on account of his promotion, his pay was not refixed in the post of Deputy Block Development Officer as per Rule 22-B of the F.R.

3. The learned Counsel for the petitioner further submitted that after the upgradation of the post of Extension Officer as Deputy Block Development Officer, the District Collector, Namakkal by Proceedings dated 30.11.2010 regularised his service in the post of Extension Officer w.e.f. 13.4.2007 and orders were also issued by the District Collector, Namakkal by Proceedings dated 31.1.2011, declaring satisfactory completion of his probation period in the post of Extension Officer as on 12.4.2008 A.N. While so, after completion of 10 years in the post of Deputy Block Development Officer, selection grade was granted to him by granting two increments by proceedings dated 2.6.2017 of the Block Development Officer (VP), Kollimalai. In the meanwhile, the petitioner was promoted as Block Development Officer (Village Panchayats) as per Proceedings dated 24.4.2017 and accordingly, he joined the said post and his pay was fixed in the said post under FR.22B by the Proceedings of the 4th respondent dated 21.6.2017.

4. The learned Counsel for the petitioner also submitted that the District Collector, Namakkal, by letters dated 8.9.2017 and 25.9.2017 sought clarifications from the Director of Rural Development and Panchayat Raj, Chennai, as to whether the period of service rendered in the post of Extension Officer which is a lower post to that of Deputy Block Development Officer can be counted for granting Selection Grade in the post of Deputy Block Development Officer. In reply, the Director of Rural Development and Panchayat Raj, Chennai, in and by letter dated 7.12.2017 informed that the period of service in the lower post cannot be taken into account as per G.O.Ms.No.68 P&A.R. Department, dated 23.1.1986. In pursuance of the said order dated 7.12.2017 issued by the 2nd respondent, the 3rd respondent,

by Proceedings dated 29.12.2017, has directed the concerned Officers to cancel the grant of Selection Grade of Pay to 8 Officers including the petitioner and refix their salary and to account the excess pay. Hence the present Writ Petition.

5. Learned Counsel for the petitioner submitted that before passing the impugned order of recovery, no notice whatsoever has been served on the petitioner calling upon him to submit his explanation as to why any order of recovery should not be made against him. Further, the learned Counsel submitted that in the said G.O.Ms.No.68, it has been stated that the service rendered in an equivalent or higher post on other duty alone should be taken into consideration for advancement of selection grade/special grade to the extent that he should have acted in his original post in the Parent Department but for his deputation. Hence, he prays for setting aside the impugned orders.

6. Heard the learned Special Government Pleader appearing for the respondents.

7. Though so many grounds have been raised in this Writ Petition to quash the impugned orders of recovery, since neither any notice nor any communication whatsoever has been served on the petitioner calling upon him to submit his explanation before passing the consequential order of recovery by the 3rd respondent dated 29.12.2017 followed by the impugned order of the 2nd respondent dated 7.12.2017, this Court, instead of quashing the impugned orders, directs the parties to act as follows:

1. The impugned order of recovery dated 29.12.2017 of the 3rd respondent served on the petitioner shall be treated as a Show Cause notice;

2. Thereupon, the petitioner is given two weeks time to give his explanation to the respondents from the date of receipt of a copy of this Order; and

3. On receipt of the explanation by the petitioner to the impugned notice, the respondents shall consider the same and pass appropriate orders, within a period of four weeks thereafter.

8. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

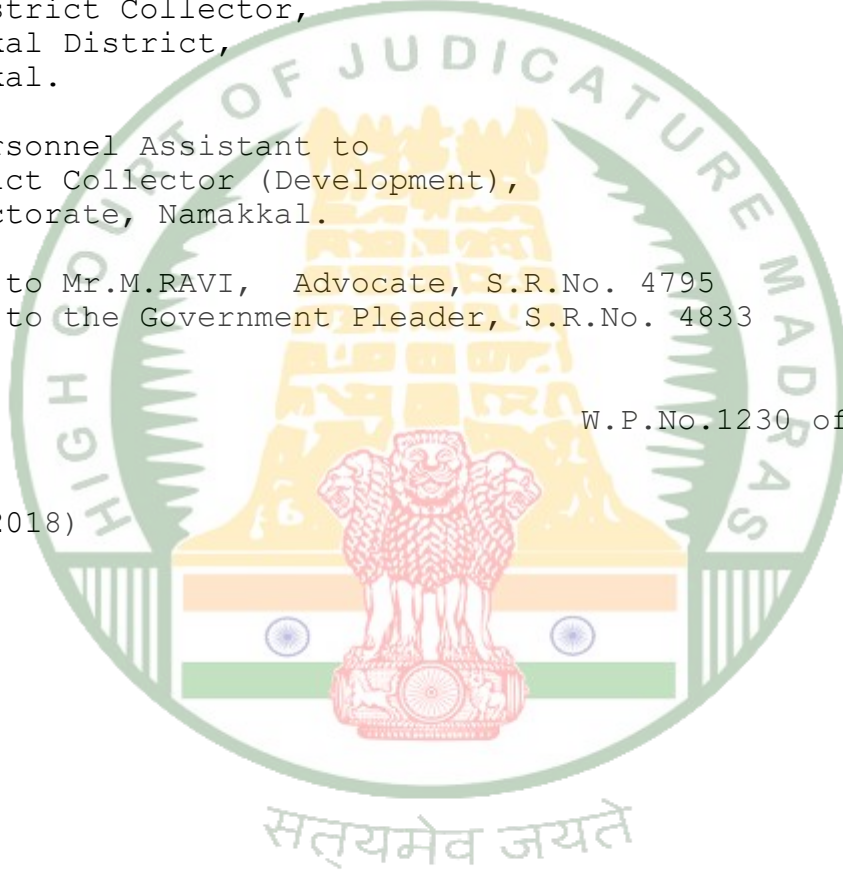
To

1. The Principal Secretary to Government,
Government of Tamil Nadu,
Rural Development and Panchayat Raj
Department, Secretariat, Chennai-9.
2. The Director of Rural Development and
Panchayat Raj Department,
Chennai-15.
3. The District Collector,
Namakkal District,
Namakkal.
4. The Personnel Assistant to
District Collector (Development),
Collectorate, Namakkal.

+1cc to Mr.M.RAVI, Advocate, S.R.No. 4795
+1cc to the Government Pleader, S.R.No. 4833

W.P.No.1230 of 2018

GJII(CO)
TR(12/02/2018)



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