

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.No.7942 of 2013 to 7951 of 2013, WP No.7960 and 7961 of 2013

MP No.1 to 1 of 2013

Mr.L.Kannan	..Petitioner in WP No.7942 of 2013
P.Rajakanthan	..Petitioner in WP No.7943 of 2013
A.Thamizselvi	..Petitioner in WP No.7944 of 2013
K.A.Balamurugu	..Petitioner in WP No.7945 of 2013
M.M.Shanmugam	..Petitioner in WP No.7946 of 2013
N.Ramesh	..Petitioner in WP No.7947 of 2013
R.Suganthi	..Petitioner in WP No.7948 of 2013
R.Murugesan	..Petitioner in WP No.7949 of 2013
S.Balaganesan	..Petitioner in WP No.7950 of 2013
P.Jayachandran	..Petitioner in WP No.7951 of 2013
V.Maruthai	..Petitioner in WP No.7960 of 2013
A.Balakrishnan	..Petitioner in WP No.7961 of 2013

Vs

1. The Government of Tamil Nadu,
rep by its Secretary to Government
Rural Development Department,
Fort St. George,
Chennai 600 009. 1st Respondent in WP.No.7942 to 7951/13
2. The Commissioner of Rural Development
and Panchayat Raj,
Panagal Building,
Saidapet,
Chennai 600 015 2nd Respondent in WP.No.7942 to 7951/13
3. The District Collector (PD Section),
Nagapattinam District,
Nagapattinam 3rd Respondent in WP.No.7942/13
4. The District Collector (PD Section)
Tiruvannamalai District
Tiruvannamalai. 3rd Respondent in WP.No.7943 & 7946/13
5. The District Collector (PD Section)
Tiruvallur District
Tiruvallur 3rd Respondent in WP.No.7944/13
6. The District Collector (PD Section)
Coimbatore District,
Coimbatore 3rd Respondent in WP.No.7945, 7947,
7950, 7951, 7960 & 7961/13

7. The District Collector (PD Section)
Nilgiris District
Nilgiris

3rd Respondent in WP.No.7948/13

8. The District Collector (PD Section)
Salem District, Salem

3rd Respondent in WP.No.7949/13

Prayer in WP.Nos.7942 to 7951/13:- Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records pertaining to G.O.(3D) No.43, Rural Development and Panchayat Raj (E3) Department dated 09.12.2011 passed by the first respondent and quash the same in so far as fixing of seniority of the petitioner by placing him in the bottom most in the seniority list of Assistant as on 09.12.2011 and further direct the respondents to reckon the seniority of the petitioner in the cadre of Assistant with effect from 01.05.2001, the date of posting him as Assistant with all consequential service benefits such as retrospective promotion and pay benefits within the time limit that may be stipulated by this Hon'ble Court.

Prayer in WP.Nos.7960 & 7961/13: Writ petitions filed under Article 226 of the Constitution of India praying to issue of writ of certiorarified mandamus to call for the records pertaing to G.O.(3D) NO.43 Rural Development and Panchayat Raj (E3) Department dated 9.12.2011 passed by the 1st respondent and quash the same in so far as fixing of seniority of the petitioner by placing him in the bottom most in the seniority list of Deputy Block Development officer as on 9.12.2011 and further direct the respondents to reckon the seniority of the petitioner in the cadre of Deputy Block Development Officer with effect from 1.5.2001 i.e. the date on which he was posted as Deputy Block Development Officer with all consequential service benefits such as retrospective promotion and pay benefits within the time limit that may be stipulated by this Honourable court.

For Petitioner : MR.L.Ramu for
Mr.G.Thalaimutharasu
in WP.Nos.7942 to 7944/13
7946/13, 7948/13, 7960,7961/13

Mr.A.S.Palanisamy
in WP.Nos.7945, 7947, 7949,
7950, 7951/13

For Respondent : Mr.K.Ravi Kumar
Additional Government Pleader
in all WPs

ORDER

On consent of the parties, all the writ petitions are taken up for final disposal together and disposed of by this common order, since the issue to be adjudicated is one and the same in all the writ petitions.

2. It appears that the petitioner's were selected by Tamil Nadu Public Service Commission as Radio Supervisor and placed under the Tamil Nadu Local Administration Radio and Television Maintenance Organization in the Rural Development Department and their services were utilized by Village Panchayat. However, subsequently the Government in its own wisdom, decided to abolish the post of Radio and Television Supervisors and accordingly, the same was abolished and the petitioner's were directed to work in the Collectorate, Rural Development unit as Assistant with effect from 01.05.2001. The petitioner's accordingly joined in the service but their service in the Collectorate was not regularised with regard to the fitment of Seniority for the cadre of assistant in the Collectorate. Subsequently, the Government took a decision and came out with G.O.Ms.No.(3D) No.43, Rural Development and Panchayat Raj dated 09.12.2011 that there seniority shall be determined in the cadre of Assistant from date of Government Order. Challenging the same to be illegal, arbitrary, the petitioner have filed the writ petition to quash the same with a further prayer for fixation of seniority from the date of they joined as Radio Supervisor.

3. According to the petitioners that they were entered into service through due selection process but the organization was abolished later and they were observed in the cadre of Assistant and prayed for their seniority from the date of appointment. Since the petitioner had joined in the service through a regular process of recruitment but their organizer had end the organization in which they were serving was abolished by the Government and they were observed in different department, they are entitled to such service in their parent organization is required to be reckoned with for fixation of their seniority. The same has been countered by the state/respondent with the averment that as the petitioner were not born in the cadre of assistant in the Collectorate but they were observed from a later date, their seniority in the cadre is required to be fixed from the date of absorption as provided in the Government Order impugned here in this petition.

4. During the course of hearing, learned counsel appearing for the petitioners submits that the case of the petitioners are squarely covered by a common order of this Court in WP Nos.27207 and 27208 of 2012 wherein some of the colleagues of the petitioners similarly situated had challenge such Government Order. This Court while quashing the said Government Order had specifically directed the petitioners for

fixation of seniority of the petitioner in the cadre of assistant i.e where they have been observed after abolition of their parent cadre from the date they joined in the service of assistant. The said order having been challenged in Writ Appeal No.736 of 2016 have also been dismissed. These writ petitions may be disposed of in the light of that order. The learned counsel appearing for the respondents does not dispute that the case of the petitioners are squarely covered by the aforesaid judgment of this Court passed in the aforesaid writ petition. This Court had also in another writ petition i.e in WP No.43299 of 2016 passed the order directed the respondents to fix seniority of the petitioners as assistant taking into account the date of commencement of their officiation as Assistant in the District Collectorate concerned and complete such exercise within a period of three months from the date of copy of that order.

5. In view of the aforesaid decision of this Court in the aforesaid writ petitions in similar facts and situation, these writ petitions filed by the petitioners in these cases stand allowed. Consequently, the respondents are directed to fix the seniority of the petitioners from the date they have joined as a Assistant in the District Collectorate on officiation after abolition of their parent cadre ignoring the direction on the impugned Government Order which has already been quashed and such exercise of fixation of seniority be completed within a period of eight weeks from the date of receipt of copy of this order. Needless to say that the petitioners after fixation of such seniority are entitled to the service benefits available to that cadre. With the aforesaid order, these writ petitions stands disposed of being allowed and the connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(co)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To

1. The Secretary to Government
Rural Development Department,
Fort St. George,
Chennai 600 009.
2. The Commissioner of Rural Development
and Panchayat Raj,
Panagal Building, Saidapet,
Chennai 600 015

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3. The District Collector (PD Section),
Nagapattinam District,
Nagapattinam

4. The District Collector (PD Section)
Tiruvannamalai District,
Tiruvannamalai.

5. The District Collector (PD Section),
Tiruvallur District
Tiruvallur

6. The District Collector (PD Section),
Coimbatore District
Coimbatore

7. The District Collector (PD Section),
Nilgiris District,
The Nilgiris.

8. The District Collector (PD Section),
Salem District,
Salem.

+1cc to Mr.G.Thalaimutharasu, Advocate sr.No.2523

+5cc to M/s.A.S.Palanisamy, Advocate SR.Nos.2431,2430,2340,
2338,2339

GMR (CO)
sm:24.1.2018

W.P.No.7942 of 2013 to 7951 of 2013,
WP No.7960 and 7961 of 2013

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