



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.03.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.2338 of 2018

and

WMP (MD) No.2545 & 2546 of 2018

N.ChithiraiSekar

... Petitioner

Vs.

1.The Director of Rural Development
and Panchayat Raj Department,
Panagal Buildings, Saidapet,
Chennai - 600 015.

2.The District Collector,
Tuticorin District,
Tuticorin.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the first respondent in his proceedings No.17054/2015/EE2 dated 23.11.2017 and quash the same and consequently direct the respondents to include the petitioner's name in the panel for the post of Assistant Engineer for the year 2014-15 on par with his immediate juniors with all other benefits.

For Petitioner : Mr.V.VijayShankar

For Respondents : Mr.J.Gunaseelan Muthaiah,
Addl., Government Pleader

ORDER

The petitioner is presently working as Union Overseer in Srivaikundam Panchayat Union Office, Thoothukudi District. The next promotion post is that of Assistant Engineer (Rural Development). As per the relevant recruitment rules for the post of Assistant Engineer (Rural Development), a person who has put in five years of service in the feeder category would be eligible for being promoted.

2.According to the petitioner, he was appointed as Junior Draughting Officer on 23.02.2009 and that therefore, he would be eligible to be considered for promotion after 23.02.2014. The respondents are taking the stand that they would not count the period from 06.04.2010 to 15.09.2010 as he was on leave on loss of



pay on medical grounds during the said period.

3.It is not in dispute that this period was sanctioned and also regularised. As per Rule 9 of the Tamil Nadu State and Subordinate Service Rules, the absence of a member of a service from duty in such service, whether on leave, or on foreign service or on deputation or for any other reason and whether his lien in a post borne on the cadre of such service is suspended or not, shall not, if he is otherwise fit, render him ineligible in his turn.

4.Therefore, absence of the petitioner herein on medical grounds which was duly sanctioned cannot render him ineligible. The respondents are bound to count the said period of leave also. Since the same has not been done, the order impugned in this writ petition has to be necessarily quashed and it is accordingly quashed. The respondents are directed to include the petitioner's name in the panel for the post of Assistant Engineer (Rural Development) for the year 2014-15 on par with his immediate juniors with all other benefits, if he is otherwise eligible. The respondents shall pass orders in this regard within a period of eight weeks from the date of receipt of a copy of this order.

5.This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1.The Director of Rural Development
and Panchayat Raj Department,
Panagal Buildings, Saidapet,
Chennai - 600 015.

2.The District Collector,
Tuticorin District,
Tuticorin.

+1cc to Mr.V.KARTHIKEYAN, Advocate, SR.53230

+1cc to M/S.Special Government Pleader, SR. 53634

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