

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 24318, 24327, 24330, 24334, 24338, 24376, 24385
and 24389 of 2019

A. Rajamanickam ..Petitioner in W.P. 24318 of 2019
U.Rajagopal ..Petitioner in W.P. 24327 of 2019
P.Punithavathi ..Petitioner in W.P. 24330 of 2019
D.Vishwanathan ..Petitioner in W.P. 24334 of 2019
N.Narasimhan ..Petitioner in W.P. 24338 of 2019
S.Pandian ..Petitioner in W.P. 24385 of 2019
N.Rajagopal ..Petitioner in W.P. 24389 of 2019

1. B.Asokan
2. R.Veeramani
3. B.Kannan
4. S.S.Rajan Babu
5. S.Ramalingam
6. R.Selvapathy
7. K.Kandasamy

..Petitioners in W.P. 24376 of 2019

..Vs..

State of Tamil Nadu rep. by its
Secretary to Government,
Rural Development and Panchayat raj Department,
Fort St. George, Chennai-9.

..First Respondent in all WPs

Director,
Commissionerate of Rural Development and
Panchayat Raj,
Panagal Building,
Chennai-15.

..Second Respondent in all WPs

District Collector,
Thiruvannamalai District,
Thiruvannamalai

.. Third Respondents in all WPs,
except W.P. 24389 of 2019

District Collector,
Cuddalore District,
Cuddalore.

.. Third Respondent in
W.P. 24389 of 2019

District Collector,
Villupuram District,
Villupuram.

.. Fourth Respondent in
W.P. 24389 of 2019

Prayer in W.P.No.24318 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the G.O.Ms.No. 119, Rural Development and Panchayat (Pa.A-4) department dated 08.09.2014 on the file of the 1st respondent herein and quash the same and consequently direct the respondents to re-fix the seniority of the petitioner in the post of Rural Welfare Officer Grade-II taking into account the service of the petitioner herein from 21.09.1968 to 16.04.1979 in the Agriculture Department and accordingly grant notional promotion in the post of R.W.O. Grade-I Assistant, Extension Officer, Deputy B.D.O, B.D.O and then in the post of Assistant Director on par with junior and extend all consequential monetary benefits including arrears of pension due to the petitioners herein in accordance with law.

Prayer in W.P.No.24327 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the Proceedings in Roc.No. 14340 / 2010 / PA3-2 dated 08.03.2012 on the file of the 3rd respondent herein and quash the same and consequently direct the respondents herein to forthwith re-fix the seniority of the petitioner herein in the post of Rural Welfare Officer Grade -II taking into account the service of the Petitioner herein from 12.05.1967 to 16.04.1979 in the Agriculture department and accordingly grant notional promotion in the post of R.W.O Grade-I /Assistant Extension Officer Deputy B.D.O. B.D.O. and then in the post of Assistant Director on par with junior and extend all consequential monetary benefits including arrears of pension due to the petitioner in accordance with law.

Prayer in W.P.No.24330 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to forthwith re-fix the seniority of the Village Level Workers including the husband of the petitioner herein absorbed in the post of Rural Welfare Officer Grade-II in Thiruvanamalai District by taking into account the service rendered by them in the Agriculture

Department and accordingly grant notional promotion on par with junior and extend all consequential monetary benefits including arrears of pension and family pension due to the petitioner herein in accordance with law.

Prayer in W.P.No.24334 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the Proceedings in Roc. No. 14340/ 2010/ PA 3 dated 08.03.2012 on the file of the 3rd respondent herein and quash the same and consequently direct the respondents herein to forthwith re-fix the seniority of the petitioner herein in the post of Rural Welfare Officer Grade -II taking into account the service of the Petitioner herein from 16. 04.1971 to 16.05.1979 in the Agriculture department and accordingly grant notional promotion in the post of R.W.O Grade-I /Assistant Extension Officer Deputy B.D.O. B.D.O. and then in the post of Assistant Director on par with junior and extend all consequential monetary benefits including arrears of pension due to the petitioner in accordance with law.

Prayer in W.P.No.24338 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the G.O.Ms.No.99 Rural Development and Panchayat (Pa. A-4) department dated 13.08.2014 on the file of the 1st respondent herein and quash the same and consequently direct the respondents herein to forthwith re-fix the seniority of the petitioner herein in the post of Rural Welfare Officer Grade -II taking into account the service of the Petitioner herein from 12.05.1967 to 13.05.1979 in the Agriculture department and accordingly grant notional promotion in the post of R.W.O Grade-I /Assistant Extension Officer Deputy B.D.O. B.D.O. and then in the post of Assistant Director on par with junior and extend all consequential monetary benefits including arrears of pension due to the petitioner in accordance with law.

Prayer in W.P.No.24376 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the Proceedings of the 2nd respondent herein in his Na.Ka.No. 13429/ 2012 GE2.1 Dated 27.10.2012 and quash the same in so far as it relates to the Petitioners herein and direct the respondents herein to forthwith consider the representation of the petitioners herein for revision of seniority based on the judgment dated 19.04.2005 of this Honble Court rendered in W.P.No. 19960 to 19962 of 1998 and consequential notional promotion with pay fixation in the post of R.W.O Grade-I / Assistant Extension Officer Deputy B.D.O. B.D.O. and then in the post of Assistant Director on par with junior and extend all

consequential monetary benefits including arrears of pension due to the petitioners.

Prayer in W.P.No.24385 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the proceedings of the 2nd respondent herein in his Na.Ka.No.13429/ 2012 GE2.1 Dated 27.10.2012 and quash the same in so far as it relates to the Petitioners herein and direct the respondents herein to forthwith consider the representation of the petitioner herein for revision of seniority based on the Judgment dated 19.04.2005 of this Honble Court rendered in W.P.No.19960 to 19962 of 1998 and consequential notional promotion with pay fixation in the post of R.W.O Grade-I / Assistant Extension Officer Deputy B.D.O. B.D.O. and then in the post of Assistant Director and extend all consequential monetary benefits including arrears of pension due to the petitioner.

Prayer in W.P.No.24389 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the proceedings of the 3rd respondent herein in his Na.Ka.No. Pa.A-4 / 2266/2011 Dated 26.05.2014 and the proceedings of the 4th respondent herein in his Na.Ka.No. Pa.A-3/640/2011 Dated 27.06.2014 and quash the same and direct the respondents herein to forthwith consider the representation dated 10.04.2019 of the petitioner herein for revision of seniority based on the Judgment dated 19.04.2005 of this Honble Court rendered in W.P.No. 19960 to 19962 of 1998 and consequential notional promotion with pay fixation in the post of R.W.O Grade-I /Assistant Extension Officer Deputy B.D.O. B.D.O. and then in the post of Assistant Director and extend all consequential monetary benefits including arrears of pension due to the petitioner.

For Petitioners in all WPs. : Mr.V.R.Rajasekaran

For Respondents in all WPs. : Mr. Arvind Pandian - AAG
Assisted by
Mrs.R. Janaki, AGP.

COMMON ORDER

These Writ Petitions are taken up together and disposed of by way of common order, since the issue involved in these Writ Petitions is common.

2. The case of the petitioners is that the petitioners joined as Village Level Workers/Agricultural Assistants Grade-II. Subsequently, they were absorbed as Gramasevak Grade-II and they were transferred from one district to another district and finally to their native districts. Without considering the absorption period of service rendered by the petitioners as Village Level Workers in the Agricultural Department and as Gramasevak Grade-II and without fixing seniority in the said posts, the petitioners were given promotions as Rural Welfare Officers Grade-II. The petitioners also retired from service on superannuation.

3. It is the further case of the petitioners that similarly situated persons approached the Tribunal for notional promotion and monetary benefits in O.A. Nos. 540 of 1989 and 276 of 1989 etc., batch. The Tribunal by a common order dated 08.11.1991 has disposed of the above applications directing the authorities to reckon the seniority of the applicants therein with effect from the date of their first appointment as Village Level Workers/Assistant Agricultural Officers-Grade II in the Agricultural Department. Challenging the order of the Tribunal, the respondents therein have filed writ petitions in W.P. Nos. 19960 to 19962 of 1998, 121 of 1999 etc., batch. The Hon'ble Division Bench of this Court, by its order dated 19.04.2005 set aside the order of the Tribunal and directed to refix the seniority of the petitioners therein in accordance with the law. Challenging the order of the Hon'ble Division Bench, no appeal has been preferred by the State.

4. It is also the case of the petitioners that citing the order made in W.P. Nos. 19960 to 19962 of 1998 etc., batch cases, similarly placed persons have made representations to the 3rd respondent/ respective District Collectors. Since 3rd respondent has not passed any order, they filed writ petitions before this Court in W.P.Nos. 4483 of 2011 and 4900 to 4902 to 2011 and this court by its order dated 26.09.2011 and common order dated 16.09.2011 respectively issued directions to the respondents concerned, to consider the representations of the petitioners herein seeking notional promotion and pass appropriate orders on merits. The 2nd respondent herein passed orders rejecting the claim of the petitioners herein for revision of seniority on the ground that the petitioners herein joined in composite North Arcot District and composite South Arcot District respectively, as the case may be, on request, after their absorption with post in other districts. Reasons given by the respondents herein is Rule 35(aa) of the General Rules to Tamil Nadu State and Subordinate Service Rules is contrary to the judgment of the Division Bench of this Court and runs contrary to the specific finding that the seniority shall be re-fixed applying Rule 35(b) of the General Rules.

5. It is further contended that one such order dated 05.12.2011 of the 3rd respondent herein rejecting the claim of one C.Mani was challenged in W.P. No. 1730 of 2012 and another retired B.D.O namely R.Gandhi has also filed W.P.No. 1731 of 2012 seeking direction to the respondents herein to refix their seniority and grant notional benefits on par with junior. This Court by order dated 15.11.2017 allowed the said writ petitions in W.P.Nos.1730 and 1731 of 2012 and direct the respondents herein to give notional benefits to the petitioners therein in terms of the order of the Hon'ble Division Bench of this Court dated 19.04.2005. Pursuant to the directions of this Court, the 1st respondent herein had issued G.O. (P) Nos. 450 and 451, Rural Development and Panchayat Raj (C1) department dated 07.12.2018 sanctioning notional benefits to the petitioners in W.P. Nos. 1730 and 1731 of 2012 in the post of Assistant Director on par with their respective juniors. The petitioners herein are identically placed with the petitioners in W.P.Nos.1730 and 1731 of 2012, viz., C.Mani and R.Gandhi. Therefore, the claim of the petitioners herein for revision of seniority and notional benefits on par with juniors has also to be considered, in view of the above orders. Accordingly, the petitioners herein have submitted their individual representations to the respondents on various dates and the same are kept pending without consideration. Therefore, the petitioners herein approached this Court, by way of Writ Petitions, viz., W.P.No.4481 of 2011, W.P.No.23798 of 2011 and W.P.Nos.2155 of 2012 to 2163 of 2012 and this Court, by orders dated 26.09.2011, 18.10.2011 and 16.02.2012 respectively issued directions to the respondents herein to consider the representations of the petitioners' and pass appropriate orders within a period of twelve (12) weeks. Pursuant to the same, the impugned orders were passed rejecting the representations of the petitioners concerned. Therefore, challenging the impugned orders, the present Writ Petitions are filed.

6. The learned Additional Advocate General on the other hand submitted that there is no doubt that the said judgment dated 19.04.2005 made in W.P. Nos. 19960 to 19962 of 1998 is applicable to all the Village Level Workers, who were transferred to Rural Development Department and their seniority is to be fixed as per Rule 35(b) of Tamil Nadu State and Subordinate Service Rules, taking into account the date of their appointment as Village Level Workers (Grade-II) in Agriculture Department. Further all such employees are eligible to revise their seniority of higher categories and get retrospective promotions, if any, if they have continuously served in the parent District, in which they have posted as Gram Sevaks (Grade-II), without transfer to other Districts on their own request.

7. The learned Additional Advocate General further submitted that as per Rule 4(2) of Service Rules for Panchayat Development Department and as per G.O. (Ms) No. 585 Rural Development and Local Administration Department dated 12.04.1984, the Deputy Block Development Officer, Extension Officer, Rural Welfare Officer (Grade-I), Assistant, Accountant, Rural Welfare Officer (Grade-II), Junior Assistant (including Cashier), Typist and Steno-Typist in each District shall constitute a separate District unit each. Therefore, if any of the employee, in the said categories is transferred from one District to other District, on his own request, then such employee is not eligible for fixation of seniority as per rule 35(b) of Tamil Nadu State and Subordinate Service Rules, in the District to which he was transferred. In such cases, his seniority has to be fixed as per Rule 35(aa) of Tamil Nadu State and Subordinate Service Rules, with reference to the date of joining in the District to which he was transferred. In other words, though an employee appointed as Village Level Worker in Agriculture Department and transferred as Gram Sevaks (Grade-II) to Rural Development Department is eligible to avail the benefit of the judgment of this Court dated 19.04.2005 in W.P.Nos. 19960 to 19962 of 1998 and to re-fix his seniority as per Rule 35(b) of Tamil Nadu State and Subordinate Service Rules, if he is in the parent District, in which he was originally appointed and he cannot avail the benefit of the said judgment in other District to which he was transferred, on his own request i.e., in the later District his seniority cannot be fixed as per Rule 35(b) of Tamil Nadu State and Subordinate Service Rules, with reference to his date of appointment as Village Level Worker. In such cases his seniority is to be fixed as per Rule 35 (aa) of Tamil Nadu State and Subordinate Service Rules, with reference to his date of joining in later district, i.e., his seniority in the later District is to be fixed below the junior most probationer or junior most approved probationer as on the date of his joining in the later district based on whether the transferee is a probationer or approved probationer, as the case may be.

8. The learned Additional Advocate General further submitted that it is true that the petitioners are eligible to fix their seniority in the post of Gram Sevak (Grade-II) in Madurai, Coimbatore, Chengalpattu and Tirunelveli Districts respectively, as the case may be, as per Rule 35(b) of Tamil Nadu State and Subordinate Service Rules, as ordered by this Court in Common Order dated 19.04.2005 in W.P. Nos. 19960 to 19962 of 1998 i.e., the petitioners are eligible for revision of seniority number in the post of Gram Sevak (Grade-II) in the Districts, in which they have been initially appointed, by

assuming their date of joining as Village Level Worker in the Agricultural Department, instead of their seniority already fixed on the basis of their date of joining as Gram Sevak-II in the Rural Development Department. Obviously they would have become eligible for revision of seniority in higher cadres, if they had continued in Madurai, Coimbatore, Chengalpattu and Tirunelveli Districts respectively, as the case may be. But they have been transferred to composite North Arcot District and composite South Arcot District, as the case may be, on own request and willingness to forego their seniority and joined duty therein. As on the date of their joining in composite North Arcot District and composite South Arcot District, the petitioners are approved probationers. Therefore, they have to be assigned seniority below the junior most approved probationers in composite North Arcot District and composite South Arcot District, irrespective of their date of joining in Madurai, Coimbatore, Chengalpattu and Tirunelveli Districts respectively. Accordingly they have already been assigned seniority number below the junior most approved probationers working in composite North Arcot District and composite South Arcot District, as on the date of their joining in the respective Districts. Further they have rightly been given promotions to higher categories in bifurcated Districts which they opted, based on their seniority number fixed in composite North Arcot District or composite South Arcot District, as the case may be. They cannot be assigned seniority number as per Rule 35(b) of Tamil Nadu State and Subordinate Service Rules in composite North Arcot District or composite South Arcot District, as the case may be, taking into account the date of their joining as Village Level Workers in Agriculture Department, as requested by them, in the present Writ Petitions, since they have been transferred on their own request from one unit to another unit. They are not eligible to avail the concession given as per judgment of this Court dated 19.04.2005 made in W.P.Nos. 19960 to 19962 of 1998 as far as fixing of their seniority in composite North Arcot and South Arcot Districts are concerned.

9. It is further submitted by the learned Additional Advocate General that, in these cases, the petitioners, on their own willingness and request only transferred to composite North Arcot District or composite South Arcot District, and then to Tiruvannamalai or Cuddalore or Vellore or Villupuram District, as the case may be. Hence, as per Madras Grama Sevak Service Rules and as per the Tamil Nadu Ministerial Service Rules, they should give up their seniority to the post in the Districts, to which they were transferred on their own request and their seniority in the post of Gram Sevak Grade-II should be fixed below the probationers or below the persons who declared probation in the post of Gram Sevak Grade-II in that District.

If the writ petitioners rendered their services in the Districts of their original appointment i.e in Madurai District, Coimbatore, Chengalpattu, Tirunelveli, as the case may be, without have been transferred, subsequent promotions will be given notionally. But the case of the petitioners is dissimilar and contrary. Hence, in view of the above, the claim of the petitioners for revision of seniority based on the judgment dated 19.04.2005 in W.P. Nos.19960 to 19962 of 1998 and consequential notional promotion with pay fixation in the post of Rural welfare officer-Grade-I/Assistant, Extension Officer, Deputy Block Development Officer, Block Development Officer and in the post of Assistant Director with all consequential monetary benefits including arrears of pension is null and void.

10. Considering the facts and circumstances of the case and on perusal of records and the counter filed by the respondents, it is revealed that the petitioners were initially appointed as Village Level Workers in Agriculture Department between the years 1966 to 1973 and their services were regularised in the year 1966 to 1973 and they completed probation in the year 1968 to 1973 respectively. The Government have issued G.O.Ms.No.99, Rural Development and Local Administration Department, dated 13.01.1967 to absorb 415 Village Level Workers working in the Agricultural Department as Gramasevak Grade-II in the Rural Development Department. Petitioners herein are amongst the said 415 Village Level Workers. Accordingly, the petitioners have undergone training during the year 1975-76 and 1980-81 respectively and after completion of training, they were posted as Gramasevak Grade-II in various Districts in the years 1978 and 1979 respectively. Later, they were transferred to North Arcot District and South Arcot District respectively, on their own request and joined duty in the years 1979, 1980 and 1982. The proceedings were entered in the service books of the petitioners and they were eligible to fix the seniority in composite North Arcot District or South Arcot District, as the case may be, according to Sub Rule (b) of Rule 11 of Special Rules for Madras Grama Sevaks Service Rules, issued as per G.O. Ms. No. 1163, Rural Development Department dated 10.06.1976. At the time of joining duty in North Arcot District or South Arcot District, as the case may be, the petitioners were approved probationers. Therefore, they have to be assigned seniority number below the junior most approved probationers among the Gram Sevaks (Grade-II) as per sub-rule (b) of Rule 11 of Special Rules for Madras Grama Sevaks Service Rules.

11. The respondents in their counter affidavits have stated that the petitioners were employed under Special Rules for Madras Grama Sevaks Service Rules. As per Rule 1(d) of the said rules, various posts like Rural Welfare Officer (Grade-II) [Formerly Gram Sevaks (Grade-II)], Junior Assistant, Cashier,

Typist and Steno Typists were brought under the Tamil Nadu Ministerial Service Rules. Accordingly, integrated seniority lists were published by the respective Collectors of composite North Arcot District and composite South Arcot District, by assigning the petitioners' seniority below the junior most approved probationers in the respective Districts. On bifurcation of the composite North Arcot District as well as composite South Arcot District, respective petitioners opted to work in bifurcated Tiruvannamalai, Vellore, Cuddalore, Villupuram Districts respectively and accordingly, they were transferred to such Districts and their seniority was fixed based on the seniority number allotted to them in Composite North Arcot District or composite South Arcot District, as the case may be. They were given promotion, to which they are eligible in bifurcated Districts. Accordingly, the respondents denied the request of the petitioners as per Rule 35(b) of Tamil Nadu State and Subordinate Service Rules.

12. Considering the facts and circumstances of the cases, the issue involved in these cases is as to whether the petitioners are entitled to re-fix their seniority in their posts.

13. It is an undisputed fact that the petitioners were initially appointed as Agricultural Assistants (Village Level Workers) in the year 1966 to 1973 and the Government has taken decision to absorb 415 Village Level Workers in the Agriculture Department as Grama Sevaks (Grade-II) in the Rural Development Department with the posts. After training, they were again posted as Agriculture Assistants in various Districts for want of vacancy in the post of Grama Sevaks (Grade -II). Thereafter, the petitioners herein were absorbed as Grama Sevaks (Grade -II) during the years 1978 - 1979 and posted at (i). Madurai West Panchayat Union, Madurai District, (ii) Kallikudi Block Rural Development Unit, Madurai District, (iii) Thirumangalam Panchayat Union, Madurai District, (iv) Perundurai Panchayat Union in Erode District, (v) Chennimalai Panchayat Union, Coimbatore District, (vi) Chengalpattu District, (vii) Kallikudi Panchayat Union, Madurai District and (viii) Chengalpattu District respectively. Again they were transferred to composite North Arcot District, composite South Arcot District and joined duty on various dates during the year 1979 - 1982. Subsequently, the post of Grama Sevaks (Grade -II) was re-designated as Rural Welfare Officer (Grade -II). On bifurcation of the erstwhile North Arcot and South Arcot Districts during the year 1989 into Vellore and Tiruvannamalai Districts, Cuddalore and Villupuram Districts, some petitioners were retained in Tiruvannamalai District and Mr.N.Rajagopal, petitioner in W.P.No.24327 of 2019, who was working at Cuddalore District was retained in Villupuram District. The respective petitioners' services as

Village Level Workers in the Agriculture Department from 1966 etc., and services as Grama Sevaks (Grade -II) from 1979 etc., in their respective places were not taken into consideration while fixing their seniority as Rural Welfare Officer (Grade-II) in bifurcated Districts. The petitioners' claim before the competent authority came to be rejected and hence, the present Writ Petitions are being filed.

14. On perusal of records and the grounds raised by the petitioners, it is clear that there is dispute between the petitioners herein, who were transferred from Agriculture Department to Rural Development Department and those, who were already working in Rural Development Department with regard to their inter-se seniority and the same was rejected by the State Appellate Tribunal and subsequently, some of the persons working in the Rural Development Department filed several Original Applications and Review Application No.69 of 1990 before the Tribunal. The Tribunal, by order dated 08.11.1991, has dismissed the Review Application and directed the respondents in all the Original Applications to reckon the seniority of applicants therein with effect from the date of their first appointment as Village Level Workers / Assistant Agricultural Officers (Grade -II) in the Agriculture Department. After the said order dated 08.11.1991, persons who were already working in Rural Development Department filed Review Application No. 93 of 1992 on the ground that if the directions given in those applications are implemented, then their seniority are likely to be affected. Several persons working in the Rural Development Department filed individual original application. The Tribunal by a common order dated 04.11.1998 allowed the Review Application and recalled the order dated 08.11.1991. Challenging the same, the respondents therein filed Writ Petitions in W.P. Nos. 19960 to 19962 of 1998 etc., batch and the Hon'ble Division Bench of this Court, by order dated 19.04.2005, allowed the batch of Writ Petitions and issued directions to re-fix the seniority of the writ petitioners in accordance with the law laid down by the Division Bench of this Court with retrospective effect from the date on which their seniority ought to have been fixed. Subsequent to the above orders of the Hon'ble Division Bench of this Court, the respondents granted benefits to some of the petitioners therein from the date of their initial appointment in the Agriculture Department. The other person, who were not granted benefits, filed Writ Petition before this Court in W.P. No.34361 of 2014 praying to issue a writ of Mandamus directing the respondents 1 and 2 therein to forthwith promote him notionally as Assistant Director of Rural Development on par with his juniors, based on the notional promotion given to the petitioners in W.P.Nos. 19960 to 19962 of 1998 etc as B.D.O. on 03.05.2011, pursuant to the common order dated 19.04.2005 passed in W.P.Nos. 19960 to 19962 of 1998 etc., batch and consequently,

extend all monetary benefits including difference in pay and pension to the petitioners in the post of Assistant Director in accordance with law. This Court by order dated 22.09.2017 allowed the said Writ Petition and issued directions to the respondents therein to grant promotion to the petitioners therein as Assistant Director of Rural Department on par with their juniors on notional basis, without insisting on service qualification, in terms of the order of the Hon'ble Division Bench of this Court.

15. In order to avail such benefit, the petitioners made individual representation to the respondents in the year 2019 to consider their request in the light of the order of this Court dated 22.09.2017. However, without considering their request, the impugned orders came to be passed on the ground that the petitioners, on their own request, allowed to transfer from the Districts, in which they were appointed as Grama Sevaks to other Districts and already their seniority was fixed as per Rule 35 (aa) of Tamil Nadu State and Subordinate Service Rules with reference to the date of joining in the Districts, to which they were transferred and therefore, the request of the petitioners to consider them as per Rule 35(b) of the above Rules cannot be considered.

16. However, on perusal of the order of the Hon'ble Division Bench, it is clear that the Hon'ble Division Bench has considered similarly placed persons as that of the petitioners as to whether the post in the Agriculture Department came to be converted and established their services in Rural Development Department has to be treated as fresh appointment or to be treated as appointment by transfer/conversion. On further perusal of the said order of the Division Bench, it is observed that the petitioners are entitled to get seniority from the date on which they were initially appointed in Agriculture Department.

17. On the similar issue, this Court in W.P.No.1730 of 2012 dated 15.11.2017 has observed as follows;

" 4. Upon notice, Mr.S.Gunasekaran, learned Additional Government Pleader entered appearance for the respondents and filed a detailed counter affidavit. The learned counsel for the respondents would submit that the claim of the petitioner herein cannot be considered for two reasons one is that he was not a party before the Division Bench of this Court, which decided WP.No.19960 of 1998, wherein, this Court has passed final orders on 19.04.2005. Secondly, the petitioner is not entitled for the relief because of the reason that he had foregone his seniority in the Agricultural Department and came on transfer to North Arcot District and where,

the District Level seniority alone is maintained. In the said circumstances, the respondents did not consider the claim of the petitioners favourably and in such circumstances, the learned Additional Government Pleader would submit that no interference is called for in the matter. According to the Additional Government Pleader, the third respondent has rightly passed an order on 05.12.2011, rejecting the claim of the petitioner, which communication is impugned in the present writ petition.

5. Per contra, the learned counsel appearing for the petitioner would submit that the order passed by the learned Division Bench of this Court as aforesaid is the judgment in rem and the same is applicable to all the similarly placed employees working in the various other districts and not only in the Chengalpet District. According to him, that the issue has been squarely covered by the decision passed by the Tamilnadu Administrative Tribunal earlier, which was confirmed by a lengthy order passed by the learned Division Bench of this Court dated 19.04.2005. The learned counsel would submit that the reasons put forth on behalf of the respondents that the petitioner was not a party before the Division Bench cannot be a valid reason for denying the benefit to the petitioner. The other reasons which were stated that the petitioner had willingly forgone the seniority was also considered earlier by the Tribunal and also by the Hon'ble Division Bench of this Court and therefore, such reason cannot be validly pressed into service by the respondents. The learned Additional Government Pleader would also submit that there was a long delay by the petitioner before making his representation on 20.01.2011. In fact at this, the learned counsel for the petitioner would draw the attention of this Court that the SLP filed against the order of the Division Bench came to be dismissed only on 24.08.2009 and thereafter, a representation was made and the same was kept pending. In the said circumstances, the petitioner had approached this Court in W.P.No.4902 of 2011 and this Court was pleased to direct the respondents to consider the representation of the petitioner dated 20.01.2011 on merits and in accordance with law. In response to the said direction, an impugned order of rejection was passed on 05.12.2011, which is under challenge before this Court.

6. Therefore, the learned counsel for the petitioner would contend that there was no lapse on the petitioner's part since the Government itself had been dragging the issue for years together by going before the Hon'ble Supreme Court of India and by implementing the orders in a phased manner in respect of various districts.

7. The learned counsel for the petitioner would also draw the attention of this Court to the recent decision passed by this Court allowing similar claim in WP.No.34361 of 2014 dated 22.09.2017. This Court has allowed the writ petition and the facts were almost similar to the case on hand. As regards the contention regarding the transfer to one particular District is concerned, the learned counsel for the petitioner would submit that in respect of Chengalpet District even such employees who are identically placed like the petitioner herein had been given the benefit of revised seniority. Therefore, the learned counsel for the petitioner would contend that there is no impediment in granting the relief as prayed for.

8. This Court has given its anxious consideration to the rival submissions of the learned counsel appearing for the parties and perused the materials and the pleadings placed on record. This Court is entirely in agreement with the contention put forth by the learned counsel Mr.V.R.Rajasekaran, appearing for the petitioner for more than one reason. Firstly, the order of the Division Bench dated 19.04.2005 rendered in W.P.Nos.19960 to 19962 of 1998 is squarely applicable to the present case and as rightly contended by the learned counsel that it is a judgment in rem but not a judgment in personam. Therefore, it is incumbent and imperative on the part of the authorities concerned to extend the benefit as directed by the Tamil Nadu Administrative Tribunal and also by the Division Bench of this Court to all the similarly placed persons like the petitioner. Secondly, it has to be seen that treating the petitioner differently from the other similarly placed employees would amount to gross violation of Articles 14 and 16 of the Constitution of India, since there is no intelligible diffenrentia between the petitioner and the other similarly placed persons for taking

out a different view in the matter. All other contentions raised on behalf of the petitioner are well founded and this Court has no hesitation in accepting the same. This Court has taken a uniform view in favour of the employees concerned and passed orders recently on 22.09.2017 in W.P.No.34361 of 2014 in almost similar circumstances. Therefore, the petitioner has made out a case for grant of relief in all fours.

9. In view of the above discussion and narrative, the writ petition is allowed and the impugned order passed by the third respondent in R.C.No.PA3/546/2011 dated 05.12.2011 is set aside. The respondents are directed to implement the judgment of the learned Division Bench of this Court dated 19.04.2005 in W.P.Nos.19960 to 19962 of 1998 with reference to the seniority of the petitioner with all attendant and consequential benefits and notional promotion to the next higher post as RWO Grade I/Assistant/Extension Officer, Deputy Block Development Officer/Block Development Officer and Assistant Director as the case may be on notional basis. The said exercise shall be completed by the respondents within a period of three months from the date of receipt of a copy of this order. No costs."

18. However, the decision of the Hon'ble Division Bench in W.P.Nos. 19960 to 19962 of 1998 etc., batch is squarely applicable to the present case on hand on the ground that the reasons assigned in the impugned orders are already overlooked by this Court in the above said decision of this Court and the orders passed in the above decision also came to be implemented vide G.O. (P) Nos. 450 Rural Development and Panchayat Raj (C1) department dated 07.12.2018. When similarly placed persons were granted benefits, denying the same to the petitioners herein is unreasonable.

19. In view of the above reasons and decisions rendered by the Hon'ble Division Bench and the learned Single Judge of this Court cited supra on similar issue, I am inclined to grant benefits to the petitioners herein.

20. In the result, all the Writ Petitions are allowed and the respective impugned orders are quashed. No costs.

21. The respondents are directed to extend the benefits to the petitioners by implementing the decisions rendered by the Hon'ble Division Bench and the learned Single Judge of this

Court (cited supra), within a period of three months from the date of receipt of a copy of this Order. It is made clear that the petitioners are not entitled for the interest amount to belated payment.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

ak / mra

To

1. The Secretary to Government,
Rural Development and Panchayat raj Department,
Fort St. George, Chennai-9.
2. The Director,
Commissionerate of Rural Development and
Panchayat Raj,
Panagal Building, Chennai-15.
3. The District Collector,
Thiruvannamalai District,
Thiruvannamalai
4. The District Collector,
Cuddalore District,
Cuddalore.
5. The District Collector,
Villupuram District,
Villupuram.

+8cc to Mr.V.R.Rajasekaran, Advocate SR.No.95680

+1cc to Government Pleader SR.No.96577

W.P.Nos. 24318, 24327, 24330,
24334, 24338, 24376, 24385
and 24389 of 2019

BP (CO)
GMY (11/02/2020)