

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.27369 and 27376 of 2019
and

W.M.P.Nos.26818, 26820, 26823, 26829, 26831, 26832 of 2019

1.M.Srinivasan
2.M.Indumathi
3.R.Kannan
4.M.Balakrishnan
5.R.Saravanan
6.D.Geetha

.... Petitioners
in W.P.No.27369 of 2019

1.S.Loganathan
2.M.Balaji
3.N.Farook Basha
4.G.Geethalakshmi
5.A.Veeramani
6.S.Kanagavalli
7.K.Kannimuthu
8.R.Aravindha Kumar
9.K.Sennappan
10.C.Raja
11.T.Chitra

... Petitioners
in W.P.No.27376 of 2019

Vs.

1.The Secretary,
Rural Development and Panchayat Raj Department,
Fort St.George, Chennai - 600 009.

2.The Director,
Rural Development and Panchayat Raj Department,
Panagal Maligai,
Saidapet, Chennai - 600 015.

3.The District Collector,
Dharmapuri District,
Dharmapuri.

... Respondents
in both W.Ps.

Prayer in W.P.No.27369 of 2019 :- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in relation to the impugned order on the file of the third respondent in

Na.Ka.No.3271/2019/K2, dated 26.8.2019, quash the same and consequently direct the respondents to publish the final seniority list as per the proceedings of the third respondent in Na.Ka.No.3271/2019/K2, dated 08.03.2019, whereby the petitioners who have been appointed on compassionate ground have been properly granted with retrospective seniority on par with their junior as per the clarification letter issued by the first respondent in letter No.21072/7/2001-3, dated 31.01.2002 and the proceedings of the first respondent G.O.(2P) No.128, dated 13.08.2019 and consequently promote the petitioners to the post of Deputy Block Development Officer with all consequential service & monetary benefits.

Prayer in W.P.No.27376 of 2019 :- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in relation to the impugned order on the file of the third respondent in Na.Ka.No.3271/2019/K2, dated 08.03.2019 and the consequential proceedings in Na.Ka.No.3271/2019/K2, dated 26.8.2019, on the file of the third respondent, quash the same and consequently direct the respondents to granting to prepare a fresh seniority list by the petitioners with retrospective seniority on par with their junior by considering the fact that the delay in regularization of services of the petitioners as compassionate appointees is not due to their fault as per the clarificatory letters issued by the first respondent in Letter No.21072/7/2001-3, dated 31.01.2002 and order of the first respondent in G.O.(2P) No.128, dated 13.08.2019 and the law declared by this Hon'ble Court in Writ Appeal in W.A.Nos.302, 425, 855 of 2014.

For Petitioners : Mrs.Dakshyani Reddy
for Mr.P.Nethaji
(in both W.Ps)

For Respondents : Mrs.R.Janaki
Additional Government Pleader
(in both W.Ps)

COMMON ORDER

By consent, this writ petition is taken up for final disposal at the admission state itself. Since the issue involved in these writ petitions are one and the same, both the petitions are taken together for common disposal.

2.The petitioners in W.P.No.27369 of 2019 have all been appointed as Junior Assistants on compassionate ground on various dates. Subsequently, the petitioner's services were regularized from the initial date of appointment and their

probation was also declared with effect from various dates. As per proceedings of the Government in letter No.21072/7/2001-3 dated 31.01.2002, which specifically postulates that if there is any delay in issuance of the Government Order regularizing the services of the compassionate appointees, regularization shall be given with retrospective effect and their promotion to the post of Assistant is also to be given with retrospective seniority from the date when their juniors in the post of Junior Assistants were promoted to the post of Assistants. The petitioners had also provided the actual date of promotion of the petitioners to the post of Assistant. All the petitioners were appointed to the post of Assistants as on 10.10.2013, 13.06.2016, 09.05.2015, 07.04.2017, 07.04.2017 and 07.04.2017 respectively. While so, the seniority list in the post of Assistant for the period as on 01.01.2015 was published by the 3rd respondent in his proceedings dated 02.06.2016 in Na.Ka.No.1353//2016K2, wherein the 1st petitioner i.e. M.Srinivasan was placed in the seniority list by taking into account his date of joining service as on 10.10.2013. Since the 1st petitioner raised objection stating the fact that he was unjustly denied grant of promotion to the post of Assistant due to the delay in issuance of the Government Order regularizing his service in the post of Assistant. The objection of the 1st petitioner was accepted and he was given retrospective seniority by including him in the panel for promotion to the post of Assistant as on 01.03.2011 and the seniority list was published placing him as on 15.07.2011 in the post of Assistant instead of his actual date of joining service, which is on 10.10.2013 and that said placement as on 15.07.2011 has become final. Based upon the seniority as on 01.01.2016, the same seniority list was followed for the year as on 01.01.2017 and 01.01.2018. According to the petitioners, the list with respect to the 1st respondent is equally applicable to the other petitioners also. On 01.01.2019, the 3rd respondent published the temporary seniority list by placing the petitioners correctly as per the seniority list till 01.01.2018 vide proceedings dated Na.Ka.No.3271/2019/K2 dated 08.03.2019. Thereafter, due to the objections raised by the some individuals who were recruited through Tamil Nadu Public Service Commission, the 3rd respondent has revised the seniority of the petitioners by reckoning the seniority only from the actual date of joining, which is 10.10.2013 with respect to the petitioner M.Srinivasan, whereby the said Srinivasan is penalized for the administrative delay in issuance of the order of regularization of his service as compassionate appointee.

3.The case of the petitioners in W.P.No.27376 of 2019 is that the petitioners have all been appointed on compassionate ground and their regularization of service were made on various dates. However, in the case of 1st petitioner, he was appointed

on 22.02.2014 on compassionate ground as Junior Assistant and he was regularized only after issuance of G.O.(4) No.22 dated 18.04.2018, i.e. After enormous delay of four years. In the meantime, many juniors have been promoted as Junior Assistants. Only in the year 2018, the 1st petitioner viz.Loganathan was regularized and his probation was also declared retrospectively. It is submitted that only thereafter in the year 2018, the 1st petitioner was actually promoted to the post of Assistant with effect from 14.05.2018. The 1st petitioner is entitled to be included in the seniority list in the post of Assistant as on 01.03.2016 on par with his junior. Since, the 1st petitioner was promoted as Assistant only from 14.05.2018, for the first time, he was included in the temporary seniority list published by the 3rd respondent as on 01.01.2019 vide the proceedings dated 08.03.2019 in Na.Ka.No.3271/2019/K2 dated 08.03.2019, wherein instead of placing the 1st petitioner in the panel as on 01.03.2016 in the post of Assistant, the date of joining on 14.05.2018 was taken into account and he was given Sl.No.61. Therefore, the 1st petitioner raised his objection, however, the respondents rejected his objection and confirmed his placement as Sl.No.61 by reckoning his date of joining in the post of Assistant. Since the other petitioners are following the 1st petitioner in the seniority list, the present petitions have been filed.

4. Heard both sides.

5.Mrs.Dakshayani Reddy, learned counsel for the petitioners submitted that though the petitioners filed the present petition challenging the impugned orders dated 08.03.2019 and 26.08.2019, pursuant to the impugned orders, the petitioner has filed an appeal before the 2nd respondent, which is still pending. She further submitted that it would suffice if a direction to the 2nd respondent to consider and pass orders on the appeal filed by the petitioners within a reasonable time as fixed by this Court.

6.Thus, without going into the merits of the case, this Court is inclined to direct the 2nd respondent to consider and dispose of the appeal filed by the petitioners within a period of twelve weeks from the date of receipt of copy of this order after giving due opportunity to all the aggrieved persons.

7.With the above direction, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Rural Development and Panchayat Raj Department,
Fort St.George, Chennai - 600 009.

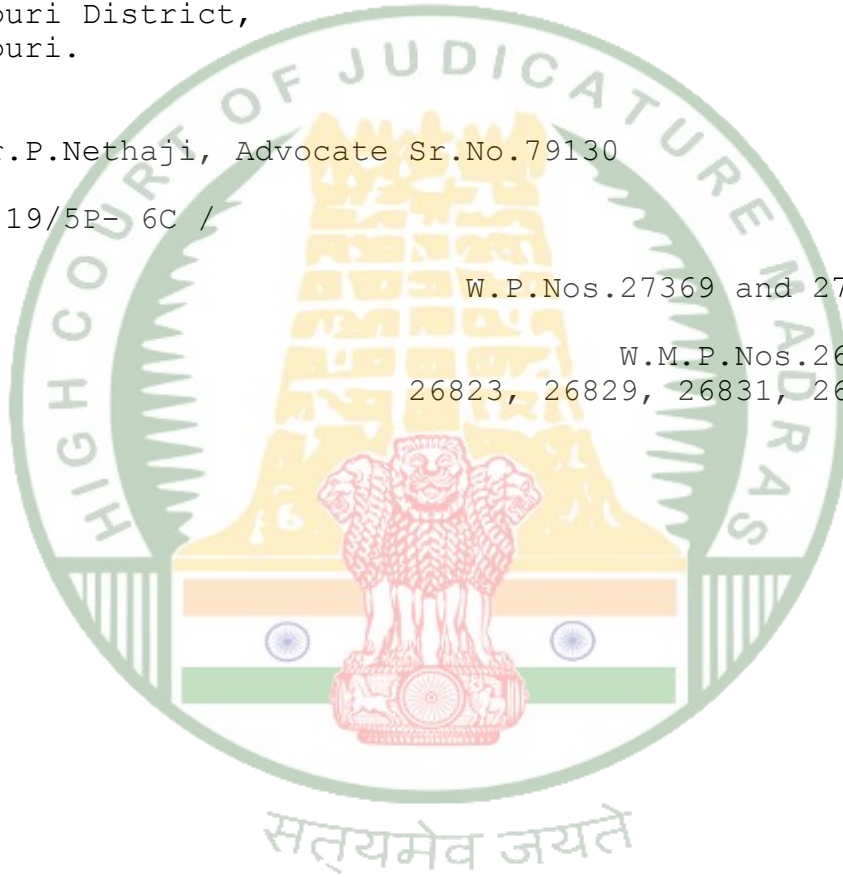
2.The Director,
Rural Development and Panchayat Raj Department,
Panagal Maligai,
Saidapet, Chennai - 600 015.

3.The District Collector,
Dharmapuri District,
Dharmapuri.

+2cc to Mr.P.Nethaji, Advocate Sr.No.79130

AKM/27.09.19/5P- 6C /

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