

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.01.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.10631 of 2013 and

M.P.No.1 of 2013

S.Pandiyan

... Petitioner

Vs.

1. The Secretary, Revenue Department,
Govt. of Tamilnadu, Fort St. George,
Chennai-9.
2. The Special Commissioner and
Commissioner of Revenue Administration,
Ezhilagam, Chepauk, Chennai-5.
3. The District Collector,
Villupuram District, Villupuram. ... Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other order or direction in the nature of appropriate writ calling for the records of the first respondent in his letter No.7593/SER.8(1)/2012-8 dated 11.02.2013 and quash the same and thereby direct the respondents to confer the benefit of promotion from 01.06.1995 on the basis of G.O.Ms.625 dated 06.07.1995 Revenue Department, Government of Tamilnadu and also direct the respondent to give consequential monitory benefit of promotion.

For Petitioner : Mr.N.Suresh
For Respondents : Mr.J.Ramesh,
Addl. Government Pleader
(for R1 to R3)

O R D E R

Challenging the order passed by the first respondent in No.7593/SER.8(1)/2012-8 dated 11.02.2013, this writ petition has been filed by the petitioner.

2. The writ petitioner was appointed as Village Assistant in Elangadu Village, Villupuram Taluk and District on 01.04.1981 and he is a Post Graduate Degree holder

in M.A.(History). As per G.O.Ms.No.625 dated 06.07.1995, the petitioner is entitled to get all the benefits like other Government servants. Hence, he gave representation to the respondents on 29.12.2009 seeking increment of his acquiring Post Graduate Degree and promotion. Since the Government has not considered the representation of the petitioner, he obtained an order of direction by filing a writ petition in W.P.No.2835 of 2010 and this court by its order dated 06.07.1995, directed the first respondent to consider his representation. Subsequently, the first respondent passed the impugned order dated 11.02.2013 rejecting the request of the petitioner. Hence, he filed the present writ petition.

3. The learned Additional Government Advocate submitted that the G.O.Ms.No.625, Revenue Department dated 06.07.1995 was issued only for converting the post of Village Assistant from part time to full time with effect from 01.06.1995 and not for promotion of Village Assistant as contended by the petitioner. His contention is that the petitioner was appointed as part time Village Assistant on 01.04.1981 and subsequently as per the above Government Order, his service in part time Village Assistant was regularised and brought into time scale with effect from 01.06.1995. He further submitted that as per the Special Rules in respect of the Tamil Nadu Village Assistant under Subordinate Service, framed in G.O.Ms.No.521, Rev. [Ser VII(2)] Dept. dated 17.06.1998, the minimum qualification for Village Assistant is 5th standard pass, however, the benefit of granting advance increment has not been extended in the above said government order. Therefore, the order passed by the first respondent rejecting the claim of the petitioner for increment and promotion is in accordance with law and the same need not be quashed.

4. The first respondent rejected the representation of the petitioner vide his order dated 11.02.2013, wherein, it is stated as follows.

" In this connection, in the reference first cited your request for promotion and to sanction increments for obtaining Post Graduate Degree has been examined. The Post Graduate Degree obtained by you is only through the Open University system and not through regular course of study. In the G.O.2nd cited (G.O Ms.No.116, P & AR, dated 18.08.2010), orders were issued that those who possess a Post Graduate Degree through open university system without obtaining a basic Degree cannot be considered as possessing a Post Graduate Degree for appointment in the public services. The post of Village Assistant comes under special scale

of pay. Therefore, your request for promotion and to sanction advance increments for acquiring Graduate/Post Graduate Degree cannot be considered."

5. The learned Additional Government Pleader relied on a decision rendered by a Division Bench of this court in W.A.No.805 of 2014 dated 06.08.2014, wherein, this court by following the G.O.Ms.No.107 Personnel and Administrative Reforms (M) Department dated 18.08.2009 and by following the decisions rendered by the Honourable Supreme Court, has held that the appellants are not entitled for seeking promotion as well as increment.

6. It is represented by the learned Additional Gov. Advocate that the petitioner has been conferred Selection Grade in the Village Assistant Cadre by granting 3% of pay as increment as enumerated in G.O.Ms.No.645, Revenue Department dated 29.11.2010. However, his name could not be considered for promotion as Office Assistant, as he was junior to 59 Village Assistants and the first 17 Village Assistants were considered for promotion, from among which, 6 had been promoted as Office Assistants.

7. Therefore, in the light of the above discussions and the government order, the petitioner is not entitled to get promotion and advance increments for acquiring Graduate/Post Graduate Degree. At this juncture, the learned counsel appearing for the petitioner submitted that the petitioner may be permitted to make a fresh representation seeking a relief of promotion.

8. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. It is open for the writ petitioner to make a fresh representation to the authority concerned seeking the relief of promotion.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

mst

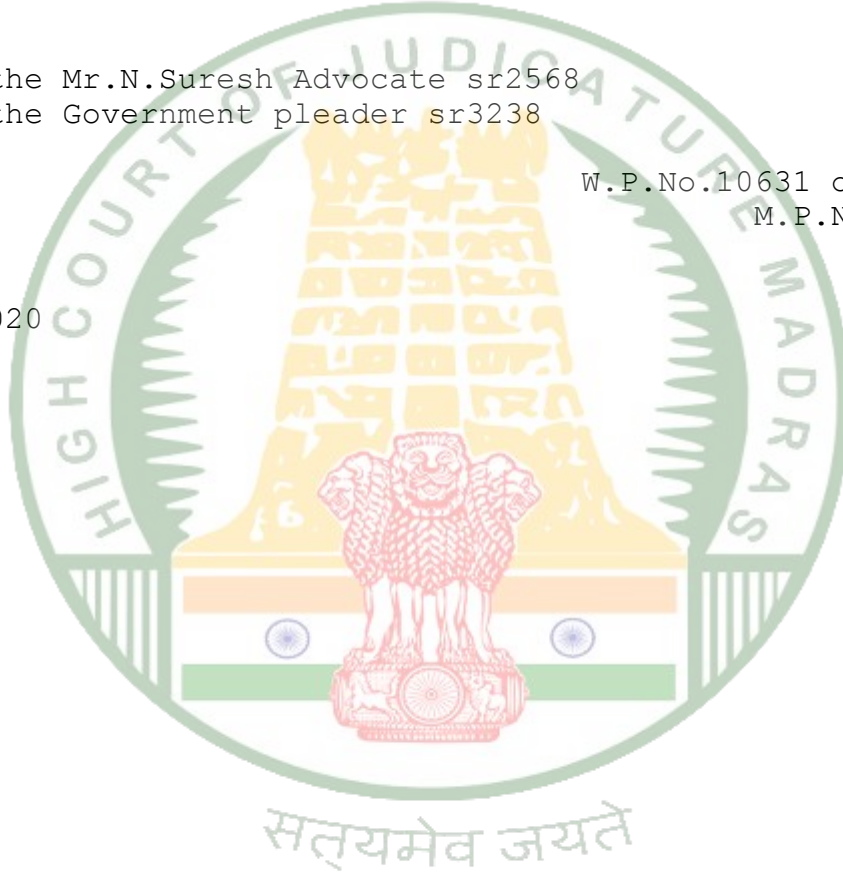
To

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+1 cc to the Mr.N.Suresh Advocate sr2568
+1 cc to the Government pleader sr3238

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