

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.15686 of 2017 and
W.M.P.No.16979 of 2017

P. Chandran
..Petitioner

vs

- 1.The Director,
Rural Development and Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 600 015.
- 2.The District Collector,
Nilgiris District.
- 3.The Block Development Officer,
Panchayat Union,
Gudalur, Nilgiris.

..Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in Na.Ka.No.29782/2017/B3, dated 05.06.2017 and the consequent proceedings of the second respondent in Na.Ka.D2.No.31263/2013, dated 06.06.2017, and quash the same, and consequently, direct the respondents to promote the petitioner with retrospective effect from the year 2004 and grant the monetary benefits to the petitioner.

For Petitioner :Mr. S.P. Sudalaiyandi
For RR 1 to 3 :Mr.S. Thangavel
Special Government Pleader

ORDER

This writ petition has been filed by the petitioner seeking to call for the records of the first respondent in Na.Ka.No.29782/2017/B3, dated 05.06.2017 and the consequent

proceedings of the second respondent in Na.Ka.D2.No.31263/2013, dated 06.06.2017, and quash the same, and consequently, direct the respondents to promote the petitioner with retrospective effect from the year 2004 and grant the monetary benefits to the petitioner.

2. The case of the petitioner is that the writ petitioner was appointed as Panchayat Assistant vide appointment letter in Na.Ka.No.A1.No.10077/90, dated 28.12.1990 by the Block Development Officer in Gudalur, Nilgiris. Subsequently, he was transferred to Masinakudi Panchayat and had worked in the said place till his retirement i.e from 01.04.1990 to 28.02.2013. As per Na.Ka.D2.No.77033/2004, dated 05.04.2004, issued by the second respondent/Collector, Nilgiris District, 10% reservation was provided in favour of Panchayat Writers, who were in service between the period 1992 - 1993 and 2001-2002, to be promoted to the post of Junior Assistant. Based on the aforesaid order, the writ petitioner has made several requests to the second respondent/Collector and concerned authorities on 28.04.2004, 29.03.2005, 03.06.2006, 26.03.2007 and 10.11.2009 to consider his name for promotion, but no action has been taken. In the meantime, his juniors had been promoted to the post of Junior Assistant as early as in the year 2004. The third respondent/BDO by proceedings dated 15.05.2013 rejected the claim of the writ petitioner on the sole ground that he had already retired from service. Aggrieved by the said order, he filed a writ petition before this Court in W.P.No.25410 of 2013 challenging the order dated 15.05.2013 and the same was disposed of by this Court vide order dated 07.11.2016 directing the second respondent to consider the case of the petitioner in accordance with law.

2.1 Pursuant to the order of this Court, on 23.11.2016, the petitioner has sent a detailed representation to the respondents 2&3 along with the copy of the order of this Court. The said representation was also rejected by the first respondent in Na.Ka.No.29782/2017/B3, dated 05.06.2017 and the second respondent in Na.Ka.D2.No.31263/2013, dated 06.06.2017 respectively. Hence, this writ petition.

3. The learned counsel appearing for the writ petitioner would submit that the writ petitioner's name was proposed in the year 2000. However, the writ petitioner had sent several representations to the authorities concerned on 28.04.2004, 29.03.2005, 03.06.2006, 26.03.2007 and 10.11.2009 requesting them for his promotion. Consequent to the order of this Court dated 07.11.2016, the first respondent in Na.Ka.No.29782/2017/B3/dated 05.06.2017 observed that the Tamil Nadu Public Service Commission has approved he promotion panel including the petitioner on 05.03.2013 but at the time of

selection, he was retired and hence rejected the claim of the petitioner. The second respondent also rejected the claim made by the petitioner on the same ground by his order dated 06.06.2017. Therefore, it is the contention of the learned counsel for the petitioner that the respondents should have considered his seniority and eligibility much earlier to the year 2013.

4. On the other hand, the learned Special Government Pleader has submitted that no such representations were received by the second respondent. On 21.12.2012, the writ petitioner has sent a representation to the third respondent requesting to promote him to the cadre of Junior Assistant and the same was forwarded to the second respondent on 03.01.2013 for necessary action. While the representation of the petitioner for promotion was under active consideration, he was retired from service on attaining the age of superannuation on 28.02.2013. He denied the contentions of the learned counsel for the petitioner that 10 Panchayat Assistants, who were juniors to the writ petitioner were promoted to the post of Junior Assistant in the year 2004 as patently false and baseless. The learned Special Government Pleader has submitted that during the period from 2004 till the date of retirement of the writ petitioner, no incumbent in the cadre of Panchayat Assistants in the Nilgiris District has been promoted to the cadre of Junior Assistant. The learned Special Government Pleader has further submitted that the order passed by the first & second respondents on the ground that since the petitioner was retired from service on 28.02.2013 his request for retrospective promotion cannot be accepted does not violate the principles of equity. Therefore, there was neither delay nor any inaction on the part of the respondents in enlisting the name of the petitioner in the promotion panel.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader and perused the materials available on record.

6. Admittedly, the writ petitioner was retired from service on attaining the age of superannuation on 28.02.2013 and the Tamil Nadu Public Service Commission has approved the promotion panel to the post of Junior Assistant on 05.03.2013 and the Government has passed the order in the month of June, 2017 promoting the Juniors to the post of Junior Assistant in the respondent/Department. Therefore, the writ petitioner cannot have any legal claim for promotion retrospectively on par with his Juniors.

7. Considering the facts and circumstances of the case and the submissions made by the learned counsel appearing for the

writ petitioner as well as the learned Special Government Pleader, this Court is of the considered view that the request of the writ petitioner seeking notional promotion of with retrospective effect cannot be considered in the light of the decision of the Hon'ble Delhi High Court in the case of Ranvir Singh Vs. Government of NCT of Delhi & Others (WP(C) No. 2969 of 2012 dated 24.05.2013) and the same is liable to be rejected.

8. In the result, the writ petition stands dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm/ak

To

1. The Director,
Rural Development and Panchayat Raj,
Panagal Building, Saidapet, Chennai - 600 015.
2. The District Collector,
Nilgiris District.
3. The Block Development Officer,
Panchayat Union, Gudalur, Nilgiris.

+1 cc to M/s. S.P.sudalaiyandi, Advocate Sr.No. 7490

+1 cc to The Government Pleader, Sr.No. 7675

W.P.No.15686 of 2017
and

WMP.No. 16979 of 2017

VGII (CO)
RMP (30/09/2020)

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