



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.12342 of 2012

WEB COPY

N.Sreedharan Thambi

: Petitioner

Vs

1. The Government of Tamil Nadu,
Rep by its Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai - 600 009.

2. The Director of Town Panchayats,
Kuralagam,
Chennai - 600 108.

3. The Accountant General (A & E),
361, Annasalai,
Teynampet,
Chennai - 600 018.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 25.01.2010 and 21.11.2011 and grant promotion as Executive Officer (Selection Grade) with effect from 24.01.1985 and consequential promotion as Assistant Director of Town Panchayats on par with the petitioner's junior Mr.V.David Michael and grant monetary and revised pensionary benefits within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy
For Respondents : For R1 & R2 - Mr.D.Muruganandam
Additional Government Pleader
For R3 - Mr.P.Gunasekaran

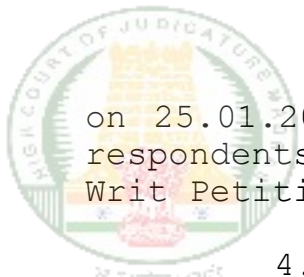
O R D E R

This Writ Petition is filed by the petitioner to direct the respondents to consider the petitioner's representation dated 25.01.2010 and 21.11.2011 and grant promotion as Executive Officer (Selection Grade) with effect from 24.01.1985 and consequential promotion as Assistant Director of Town Panchayats on par with the petitioner's junior Mr.V.David Michael and grant monetary and revised pensionary benefits within a time limit to be fixed by this Court.



2. The case of the petitioner is that he was appointed as Junior Assistant in the Suchindram Town Panchayat Office through the District Employment Office and joined duty on 18.03.1964. He had passed all the Departmental Tests prescribed for the officers of Panchayat Development Department and he has been given promotion upto Executive Officer (Special Grade). On completion of 38 years of service, he was retired from service on 31.05.2002. Further the case of the petitioner is that in G.O.Ms.No.270 Rural Development Department dated 04.04.1990, orders have been issued making "Special Rules for the Tamil Nadu Town Panchayat Subordinate Service" and the same was given retrospective effect from 07.05.1981 except for the posts of Executive Officer Grade I and Executive Officer Grade II, for which the rules came into force on 05.02.1985. According to the petitioner, in Rule 2(b) of the said Rules, it has been stipulated that appointment to the post of Executive Officer (Selection Grade) Town Panchayat and Executive Officer Grade I shall be made on the grounds of merit and ability and seniority being considered only where merit and ability are approximately equal. In Rule 6 of the said Rules, it has been stipulated that in respect of the posts of Executive Officer (Special Grade) Town Panchayat, Executive Officer (Selection Grade) Town Panchayat, the state shall be the unit for the purpose of appointment, reversion, discharge of probationers/approved probationers and full members, whereas in respect of the posts of Executive Officer-Grade I and Executive Officer Grade II, the District concerned shall be the unit for the above said purposes.

3. According to the petitioner, the Tamil Nadu Administrative Tribunal has passed orders to the effect that appointments to the post of Executive Officer (Selection Grade) should be based on seniority with reference to the total service from the date of entry into the category in the Ministerial service, in which the persons are initially appointed in all the Districts and the date of effect of "Special Rules for the Tamil Nadu Town Panchayat Subordinate Service" should be common for all the categories ie from 07.05.1981. The Government has implemented the above said orders dated 25.04.1994 of the Tamil Nadu Administrative Tribunal after the lapse of 15 years, in G.O.Ms.No.62 Municipal Administration and Water Supply (TPI) Department dated 18.04.2009 and passed orders to the effect that State shall be the Unit for all categories and this amendment had came into effect for all categories from 07.05.1981, based on which the second respondent had recasted the seniority and published the tentative seniority list as on 01.01.1991, 01.01.1992. The name of the petitioner was not found place in the seniority list as on 01.01.1991 and his name was found in the seniority list as on 01.01.1992 and his juniors' names were placed below his name. Though his juniors names were placed below the petitioner's name, they have been promoted to the post of Executive officer (Selection Grade) well prior to his promotion on 28.04.2009. In this regard, the petitioner had made representation



on 25.01.2010 and 21.11.2011. But no action has been taken by the respondents. Hence, the petitioner has come up with this present Writ Petition.

4. The learned counsel for the petitioner submitted that though the names of petitioner's juniors have been placed below the petitioner's name in the seniority list, they have been promoted well before the petitioner's promotion. Further, it is submitted that no reason has been assigned for not including the petitioner's name in the seniority list as on 01.01.1991. Hence, the learned counsel for the petitioner seeks direction to the respondents to consider his representation for promotion as Executive Officer (Selection Grade) with effect from 24.01.1985.

5. Though the learned Government Pleader appearing for the second respondent has filed counter affidavit opposing the claim made by the petitioner, today when the matter is taken up for hearing, he agreed to consider the petitioner's representation and pass appropriate orders on merits.

6. Heard both sides and perused the documents available on records.

7. Taking into consideration the submissions of the learned counsel for the petitioner as well as the second respondent and without adverting into the merits of the case, this Court is inclined to dispose of this Writ Petition. Although the petitioner has made a representations dated 25.01.2010 and 21.11.2011, the petitioner is directed to make a fresh representation, enclosing a copy of this order to the second respondent. On receipt of such representation, the second respondent is directed to consider the petitioner's representation and pass appropriate orders on its own merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (crl.side)

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Sub Assistant Registrar(CS)

vrn



To

1. The Secretary to Government,
Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai - 600 009.

2. The Director of Town Panchayats,
Kuralagam,
Chennai - 600 108.

3. The Accountant General (A & E),
361, Annasalai,
Teynampet,
Chennai - 600 018.

+1 CC to Mr.A.THIRUMURTHY, Advocate (SR-8144[F] dated 25/02/2020)
+1 CC to SPL.GP (SR-8401[F] dated 26/02/2020)
+1 CC to Mr.P.GUNASEKARAN, Advocate (SR-8519[F] dated 26/02/2020)

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MK (13.03.2020) 4P 7C