



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2020

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THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**

AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WEB COPY

W.A. (MD)No.925 of 2020
and C.M.P. (MD)No.5064 of 2020

K.Malathi

... Appellant

versus

1. The District Collector,
Collectorate,
Thoothukudi District.
2. The Personal Assistant to the
District Collector,
Collectorate (Development Section)
Thoothukudi District.
3. The Block Development Officer
(Block Panchayat),
Ottapidaram Block,
Thoothukudi District.
4. S.Kamatchi,
Assistant (Development Section)
District Collectorate
Thoothukudi,
Thoothukudi District.

5.S.Chinnathurai

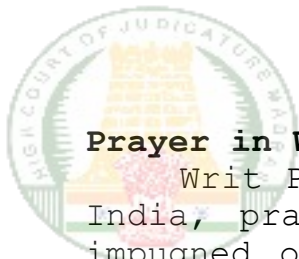
6. Shri Sandeep Nanduri I.A.S.,
The District Collector,
Collectorate, Thoothukudi,
Thoothukudi District.

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent, against the order passed in W.M.P.(MD)No.17772 of 2019 in W.P.(MD)No.19765 of 2019 dated 30.07.2020.

Prayer in WMP(MD) . 17772/ 2019 :

To vacate the interim stay granted in WMP(MD).No.16256/2019 in WP(MD).No.19765/2019 dated 16.09.2019 and thus render justice.



Prayer in WP(MD). 19765/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Call for the records pertaining to the impugned order in Na.Ka.No.Va3/3183/2016, dt.20.8.2019 on the file of the respondent No.1 and quash the same as illegal and consequently to direct the respondent No.1 to place the petitioner above the respondent No.4 in the seniority in the post of Assistant as on 1.1.2016 and thus effect promotion to the post of Deputy Block Development Officer for the year 2019-20.

For Appellant : Mr.B.Sarvanan,
for M/s.S.Louis

For Respondents : Mr.K.Chellapandian,
Additional Advocate General
assisted by Mr.M.Muthugeethaiyan,
Special Government Pleader
Mr.G.Prabhu Rajadurai for R4

JUDGMENT

[Judgment of this Court was delivered by **B.PUGALENDHI, J.**

This Writ Appeal is filed as against the order of the learned Single Judge in vacating the interim stay already granted, vide order dated 30.07.2020, passed in W.M.P.(MD)No.17772 of 2019 in W.P.(MD)No.19765 of 2019.

2. The appellant has filed a writ petition in W.P.(MD)No.19765 of 2019 as against the seniority list, issued by the first respondent in Na.Ka.No.Va3/3183/2016, dated 20.08.2019 and prayed to quash the same and also for a consequential relief to place the appellant above the respondent No.4 in the seniority for the post of Assistant as on 01.01.2016 and effect promotion to the post of Block Development Officer for the year 2019-2020. Challenging the impugned order of seniority, two others have also filed W.P.(MD) Nos.19758 and 19762 of 2019. The Writ Court, by common order dated 07.11.2019, granted an order of interim stay against the seniority list.

3. The grievance of the writ petitioners is that their seniority, originally fixed at serial Nos.82(a), 82(b) and 82(c) respectively, should be restored, instead of placing them under the serial Nos.140, 141 and 142 respectively. In view of the interim stay granted, the entire promotion process in the Rural Development Department of Thoothukudi Revenue District has been stalled and therefore, the first respondent moved an application to vacate the interim stay granted in the said writ petitions. Considering the submissions made in support of vacate stay petition, the Writ Court, by order dated 30.07.2020, modified the interim order in the

following terms:



"16. In view of the above discussion and after having taken into account the factual matrix as well as the submissions made by the learned counsel appearing for the petitioner/impleading parties as well as Mr.K.Chellapandian, learned Additional Advocate General, this Court is inclined to pass the following order in the interim application:

"that the interim order granted by this Court dated 16.09.2019 and extended by 17.10.2019 and 07.11.2019 in all these writ petitions are hereby modified to the effect that insofar as the posts of Deputy Block Development Officer at Thoothukudi Revenue District is concerned, the respondents shall be at liberty to take steps to fill up those posts by way of promotion by preparing the 'C' list or list of persons fit for promotion for the said post from among the eligible feeder category candidates. However, three of such posts shall be kept vacant at the Revenue District of Thoothukudi till the disposal of these writ petitions. In other words, except keeping the three vacancies in the cadre of Deputy Block Development Officer at Thoothukudi District, other vacancies can very well be filled up by the respondents by taking necessary steps to prepare the seniority list or 'C' list."

17. With these modifications, the interim order granted by this Court is restricted to the aforesaid effect only."

4. Mr.Louis, learned counsel for the appellant ,at the outset, made a submission that the Writ Court permitted the respondents to fill up all the vacancies by reserving three posts and in view of the interim order, the respondents, while considering promotion for other eligible candidates, may not consider the case of the writ petitioners, who are also eligible for promotion. Therefore, the learned counsel for the appellant confines his relief in this appeal for modification of the order of the Writ Court and prayed to consider the case of the appellant also along with other eligible candidates, if she is otherwise eligible for promotion in those vacancies.

5. Mr.K.Chellapandian, learned Additional Advocate General, appearing for the first respondent submits that the respondents may be permitted to fill up those posts, by promoting the writ petitioners, if they are eligible for promotion, instead of keeping three posts as vacant pending the writ petitions.



6. In view of the rival submissions, this Court is inclined to allow the Writ Appeal. Though the writ petitioners in W.P.(MD) Nos.19758 and 19762 of 2019 have not preferred any appeal, in view of the fact that a common order has been passed in W.P.(MD) Nos.19758, 19762 and 19765 of 2019, the following direction is issued:

The respondents are permitted to promote the writ petitioners, if they are otherwise eligible for promotion, leaving open the seniority issue in the writ petitions, instead of keeping three posts as vacant.

7. In the above said terms, this Writ Appeal is allowed. The issue with regard to the seniority is left open for adjudication in the writ petitions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O)

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/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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2. The Personal Assistant to the
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W.A. (MD) No. 925 of 2020
13.10.2020

PM(CO)

CS(06.11.2020) 4P 4C