

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.01.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.NO.37756 OF 2007

D.Thangappa Kurukkal

...Petitioner

Vs.

1. Union of India,
represented by the Government
of Pondicherry
represented by its Secretary
Local Administration
Pondicherry.
2. The Director
Local Administration, Pondicherry
Pondicherry.
3. Commissioner
Neravy Commune Panchayat
Karaikkal.
- 4.M.Ramasamy

...Respondents

Prayer : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorari to call for the records of Office Memorandum No.NCP/OM/73/2007 dated 24.09.2007 of 3rd respondent and quash the same and refix the seniority on the basis of date of initial appointment at the post of Junior Assistant.

For Petitioner : No appearance

For Respondents 1 to 3 : Ms.GR.Djearany
Govt. Advocate (Puducherry)

For 4th Respondent : Mr.V.Govardhan
For M/s.Row & Reddy

ORDER

The prayer sought for herein is to issue a writ of certiorari to call for the records of Office Memorandum No.NCP/OM/73/2007 dated 24.09.2007 of the third respondent and quash the same and refix the seniority on the basis of date of initial appointment at the post of Junior Assistant.

2.The petitioner was working as Senior Assistant at the third respondent Commune.

3.Insofar as the designation of the post called Junior Assistant and Senior Assistant is concerned, it seems that, the Government in order to consider the request made by various Service Associations had constituted a Three Member Committee by issuance of G.O.Ms.No.53/LAS/2007 dated 19.01.2007 to examine the demands of the Service Associations and to give recommendations to the Government.

4.Accordingly, the Three Member Committee, having considered all these aspects, have given a recommendation to the Government, having accepted such recommendation given by the Three Member Committee, in this regard, the Government has issued a G.O. of the Department of Local Administration Secretariat in G.O.Ms.No.25/LAS/2007 dated 15.06.2007 and the import of the said G.O. are extracted hereunder for easy reference:

"ORDER:

The Government has constituted a Three Member Committee in G.O.Ms.No.53/LAS/2007, dt.19.01.2007 to examine the demands of the Service Associations and to give recommendations to the Government. The Committee has submitted its report to the Government on 12.04.007. The Government after detailed examination of the recommendations, is pleased to accord approval for the redesignation of the existing post of Junior Assistant and Senior Assistant as Lower Divisional Clerk (Rs.3,050-75-3,950-80-4,590), Upper Division Clerk (Rs.4,000-100-6,000) and Assistant (Rs.5,000-150-8,000) and restructuring of the above grades in the ratios of 40:40:20 in all the Commune Panchayats of Puducherry and Karaikal as detailed in the Annexure.

2. Approval of the Government is also accorded for the creation of 14 posts of Assistant in the scale of pay of Rs.5,000-150-8,000 consequent on the restructuring and redesignation of the post of Junior Assistant and Senior Assistants in all Commune Panchayats of Puducherry and Karaikal.

3. This order takes immediate effect and the posts will stand operated from the date of their filling up as per the Recruitment Rules on par with Government of Puducherry.

4. The expenditure shall be met from the own funds of the concerned Commune Panchayat.

//By Order//

Encl.: Annexure.

(K.NAGALINGAM)

UNDER SECRETARY TO GOVT. (LA) "

5. Pursuant to the said Government Order, the redesignation has been effected in the third respondent Commune, accordingly, the third respondent passed the order dated 24.09.2007, where, the petitioner along with three others, out of whom, two were working as Senior Assistant remaining two as Junior Assistant, since had been redesignated as U.D.C. and L.D.C. i.e., Upper Division Clerk and Lower Division Clerk respectively. Aggrieved over such redesignation and to fix the seniority by taking into account, the inter se seniority among the candidates including the fourth respondent, challenging the order dated 24.09.2007, the petitioner has filed the present writ petition with the aforesaid prayer.

6. It seems that, for last some hearings, no one was appeared for the petitioner and today also, when the case is called, no one is appearing for the petitioner. However, Ms.DR.Djearany, learned Government Advocate (Puducherry) appearing for respondents 1 to 3 and Mr.V.Govardhan, learned counsel appearing for the fourth respondent were present. Both the learned counsel submitted that, based on the request made by various Service Associations, in order to resolve the issue, the Government, having considered all these aspects, had constituted a Three Member Committee and based on the recommendation given by the Committee, G.O.Ms.No.25/LAS/2007 date 15.06.2007 was issued, where the post called Junior Assistant and Senior Assistant working in Local Administration i.e., Commune like the third respondent has been redesignated as LDC and UDC respectively and the said redesignation has been uniformly made in respect of all such Senior Assistants and Junior Assistants and the redesignated post is called Upper Division Clerk as well as the Lower Division Clerk. Therefore, as against which, assuming that the petitioner has got any grievance over such redesignation, he has to challenge the G.O.Ms.No.25/LAS/2007 dated 15.06.2007. Without challenging the same, the present challenge made against the impugned order cannot stand under the legal scrutiny. Therefore, on that sole ground itself, the writ petition has to be dismissed, they contended.

7.I have considered the said submission made by both the learned counsel appearing for the respondents and have perused the materials placed before this Court.

8.As has been rightly pointed out by the learned counsel appearing for the respondents, the Government has constituted a Three Member Committee to meet the demands made by the Service Associations by issuance of G.O.Ms.No.53 dated 19.01.2007, based on which, the Three Member Committee having analysed all these aspects, since have given a recommendation to the Government, which was accepted by the Government and accordingly, G.O.Ms.No.25 dated 15.06.2007 was issued and the import of the same has already been extracted herein above.

9.Therefore, the redesignation is one of the recommendation made by the Three Member Committee, having accepted by the Government and that has been sought to be implemented through the said G.O.Ms.No.25 and therefore, the present impugned order dated 24.09.2007 made by the third respondent is a consequential order giving such redesignation of Senior and Junior Assistants working in the third respondent as U.D.C. and L.D.C. respectively and therefore, on that redesignation, the petitioner cannot have any grievance. Assuming that, he has any grievance over such redesignation, he has to challenge the G.O.Ms.No.25 dated 15.06.2007, which he has not chosen to do so. Therefore, on that ground itself, as rightly contended by the learned counsel for the respondents, the writ petition fails.

10.Moreover, by virtue of the redesignation, there could be no financial loss as the words says in the impugned order that '... the following Junior Assistants/Senior Assistants of this Commune Panchayat are redesignated as L.D.C./U.D.C., in the existing scale of pay with effect from 15.06.2007'. Therefore, in that aspect also, there could be no grievance for the petitioner. Therefore, for all these reasons, this Court feels that, the challenge made against the impugned order cannot stand in the legal scrutiny, accordingly, the writ petition fails, hence, it is liable to be dismissed. Therefore, it is dismissed. However, there shall be no order as to costs.

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Assistant Registrar(AS)
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Sub Assistant Registrar

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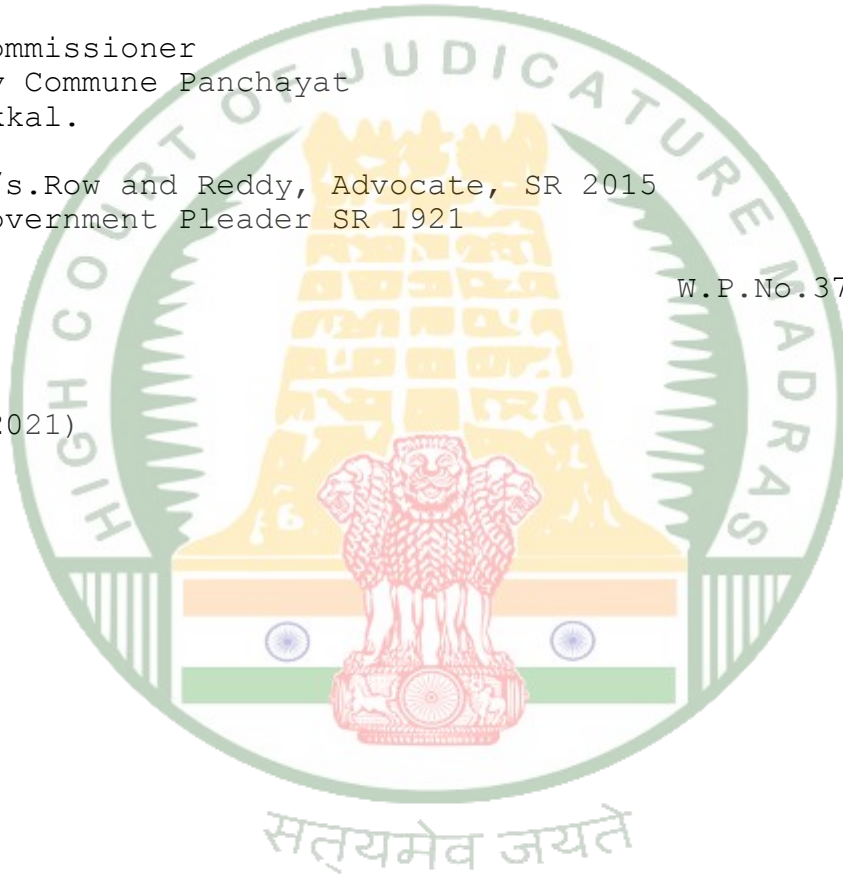
To

1. The Secretary
Government of Pondicherry
Union of India,
Local Administration
Pondicherry.
2. The Director
Local Administration, Pondicherry
Pondicherry.
3. The Commissioner
Neravy Commune Panchayat
Karaikkal.

+lcc to M/s.Row and Reddy, Advocate, SR 2015
+lcc to Government Pleader SR 1921

W.P.No.37756 of 2007

VBM(CO)
RG(13/07/2021)



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