



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.NOS.6914 TO 6916 OF 2009  
AND M.P.NO.1 OF 2010

B.Loganathan

.. Petitioner in all W.P.s

VS.

1. Union of India represented by the  
Secretary to Government,  
Local Administration Department,  
Government of Union Territory of Puducherry,  
Puducherry.

2. Villianur Commune Panchayat represented  
By its Chairman,  
Villianur, Puducherry.

3. The Director,  
Local Administration Department,  
Puducherry.

.. Respondents in all W.Ps.

Prayer in W.P.No.6914 of 2009:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to pay a sum of Rs.5,00,000/- as compensation to the petitioner with interest at the rate of 12% per annum from the date of filing of the writ petition till the date of disbursement towards the mental agony and ill treatment meted out to the petitioner.

Prayer in W.P.No.6915 of 2009:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to refix the pay of the petitioner in the post of Senior Assistant with effect from 13.01.1998 and consequently grant all the arrears of pay with interest at the rate of 12% per annum from the dates on which the amounts became due till date of disbursement.



Prayer in W.P.No.6916 of 2009:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to consider and grant promotion to the petitioner as Office Manager with effect from 20.02.2004 and consequently, re-designate as Manager in the pre-revised scale of pay of Rs.5,500-9000 with effect from 15.06.2007 and grant all the arrears of pay with seniority, service and monetary benefits with interest at the rate of 12% per annum from the date on which the amounts became due to till date of disbursement.

|                                 |                                                   |
|---------------------------------|---------------------------------------------------|
| For Petitioner<br>in all W.Ps.  | : Mr.R.Saravanan<br>For Mr.Kamalakumar            |
| For Respondents<br>in all W.Ps. | : Mrs.G.D.Jearany,<br>Government Advocate (Pondy) |

#### COMMON ORDER

The case of the petitioner, as averred in the writ petition, briefly narrated are as follows:

1.1. The petitioner was an employee of the second respondent herein and originally entered the service as a "commis" in the Municipality and subsequently, absorbed in the Villianur Commune Panchayat Service as Junior Assistant with effect from 11.11.1974. His next promotional avenue of Senior Assistant was due in the year 1996 and the same was denied on the ground that a charge memo was pending. Challenging the same, the petitioner had filed W.P.No.3110 of 1998 and vide order dated 04.08.2000, this Court quashed the charge memo and directed the respondents to consider the case of the petitioner for promotion as Senior Assistant. Pursuant to the order of this Court, the petitioner was promoted as Senior Assistant on Adhoc Basis.

1.2. The petitioner again approached this Court by filing W.P.No.5264 of 2001 and vide order dated 21.03.2003, this Court directed the respondent to consider the petitioner's case for promotion as Senior Assistant on regular basis from the date of promotion of his juniors i.e., from 13.01.1998. Thereafter, vide order dated 16.05.2003, the petitioner was promoted as Senior Assistant on regular basis with effect from 13.01.1998 and was placed in the seniority below one Mr.P.Sokkanadan and above Mrs.S.Saraswathi. Even though the petitioner was granted regular promotion, his pay was not refixed and his seniority was not restored.

1.3. While that being so, first charge memo dated 15.06.1998



was issued against the petitioner. The enquiry in respect of the said charge memo went on for 10 years inspite of repeated representations. In the meanwhile, another charge memo dated 28.06.2004 was issued on the ground that while he was working as Junior Assistant in the year 1988 to 1991. he had caused loss to the Commune Panchayat by incurring abnormal expenditure towards repairing of submersible pump by not maintaining checks and history sheet. The petitioner also pointed out that in respect of very same charges levelled against one Dharmalingam, he was exonerated of the charges after enquiry.

1.4. Grievance of the petitioner is that one junior, namely S.Balan was promoted as Office Manager Grade -II by an order dated 20.02.2004 and only to prevent the petitioner from being promoted, the above charge memos were issued. According to the petitioner, he is entitled to pay fixation in the cadre of Senior Assistant with effect from 13.01.1998 and also entitled to be promoted as Office Manager with effect from the date of promotion of his Junior Balan, i.e., with effect from 20.02.2004 and praying for the aforesaid reliefs, the petitioner has filed the above three writ petitions.

W.P.No.6915 of 2009

2. As regards re-fixation of pay of the petitioner in the post of Senior Assistant with effect from 13.01.1998 is concerned, in para 19 of the counter affidavit of the second respondent, it has been stated that the fixation of pay in the grade of Senior Assistant had been done in favour of the petitioner and his pay was re-fixed with effect from 13.01.1998 and the accrued arrears of pay from 13.01.1998 to 31.05.2010 i.e., upto the date of his retirement had already been claimed and paid to him. The said stand taken by the second respondent is not disputed by the learned counsel for the petitioner.

3. Recording the same, W.P.No.6915 of 2009 stands dismissed as infructuous. No costs.

W.P.No.6916 of 2009

4. As regards the claim of the petitioner for promotion to the post of Office Manager with effect from 20.02.2004 i.e., from the date of promotion of his Junior Thiru S.Balan and consequently, re-designate as Manager in the pre-revised scale of pay of Rs.5,500 - 9000 with effect from 15.06.2007, in para 9 of the counter affidavit of the second respondent, it has been stated that as per the final Seniority List dated 04.02.2004, published by the Local Administration Department, Puducherry, Thiru.S.Balan belongs to Scheduled Caste candidate, ranked as No.1 in the Seniority List, has been promoted as Senior



Assistant on regular basis with effect from 14.02.1996 and whereas the petitioner herein ranked as No.3 in the seniority list. It is further stated in the counter affidavit that Thiru S.Balan, Senior Assistant has fulfilled all the eligibility conditions as per the Recruitment Rules for promotion to the post of Senior Assistant, being the first point, fall under unreserved category and therefore, the said Thiru.S.Balan is considered under the unreserved point on Seniority-cum-Merit basis, as he is the only eligible candidate available in the Cadre and Senior one as per the service particulars furnished.

5. In view of the aforesaid stand taken by the second respondent, the name of the petitioner was not considered for promotion to the post of Office Manager, as disciplinary proceedings were pending against him and admittedly, the petitioner has not challenged the aforesaid Seniority List dated 04.02.2004 and without challenging the same, the relief sought for by the petitioner in W.P.No.6916 of 2009 cannot be granted.

6. Accordingly, W.P.No.6916 of 2009 stands dismissed. No costs.

W.P.No.6914 of 2009

7. As regards the prayer for compensation, it is reported by the learned Standing Counsel for the respondents that the petitioner was already granted all the retirement benefits. In view of the order passed in W.P.No.6916 of 2009, the present writ petition in W.P.No.6914 of 2009 also stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Secretary to Government,  
Union of India, Local Administration Department,  
Government of Union Territory of Puducherry,  
Puducherry.

Jvm



2. The Chairman,  
Villianur Commune Panchayat,  
Villianur, Puducherry.

3. The Director,  
Local Administration Department,  
Puducherry.

+lcc to Mr.R.Saravanan, Advocate, S.R.No.62363

+lcc to the Government Pleader, Pondicherry S.R.No.62025

W.P.Nos.6914 to 6916 of 2009

BP (CO)  
PM/09/12/2021