

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.40893 of 2005

N.Krishnasamy

...Petitioner

-Vs-

1.The District Collector
Villupuram District, Villupuram.

2.The Block Development Officer
Vikravandi Panchayat Union
Villupuram District, Villupuram.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in proceeding No.A1/1766/05 dt. 1.8.05 and quash the same and consequently direct the respondents herein to pay the monetary benefits in the category of deputy Block Development officer with effect from 19.2.99 to 5.8.99 and in the category of Block Development officer with effect from 6.8.99 to 30.6.02 with interest at the rate of 24% per annum from 19.2.02 till date of realization in full.

For Petitioner : Mr.K.Raja

For Respondents : Mr.K.Magesh

Special Government Pleader

O R D E R

The prayer sought for herein is to call for the records of the 2nd respondent in proceeding No.A1/1766/05 dated 1.8.05 and quash the same and consequently direct the respondents herein to pay the monetary benefits in the category of deputy Block Development officer with effect from 19.2.99 to 5.8.99 and in the category of Block Development officer with effect from 6.8.99 to 30.6.02 with interest at the rate of 24% per annum from 19.2.02 till date of realization in full.

2. That the petitioner was working as Extension Officer at the respondent Department, but before he superannuated, it seems that, there had been a disciplinary proceeding against him and ultimately everything ended in his favour. Therefore, he became

eligible to be considered for promotion as Deputy Block Development Officer and Block Development Officer. In this regard, orders were passed by the District Collector concerned to extend the benefits of promotions retrospectively to the petitioner as he superannuated in the year 2002 and got retired as Extension Officer. Only in this context, an order dated 01.08.2005 was passed by the proceedings of the second respondent, whereby the petitioner was considered for retrospective promotion as Deputy Block Development Officer with effect from 19.02.1999 and Block Development Officer with effect from 06.08.1999. Accordingly, those promotions were notionally conferred on the petitioner, based on which, his pay was revised and accordingly pensionary benefits also got revised and paid to him.

3. In this context, it is the grievance of the petitioner that, even though the petitioner was considered for notional promotion as Deputy Block Development Officer and Block Development Officer, for the said posts given retrospectively, the arrears of pay fixation was not conferred on the petitioner or paid to him. Therefore, challenging the denial of pay fixation arrears made in the order dated 01.08.2005, the present writ petition has been filed.

4. Heard Mr.K.Raja, learned counsel appearing for the petitioner, who would submit that, though the District Collector concerned has passed the order in the year 2002, belatedly after three years the present impugned order was passed. Therefore, in this regard no blame can be made against the petitioner as it is only the fault of the second respondent, for which the petitioner cannot be penalised, as he is entitled to get the pay fixation arrears also duly from the date of retrospective promotion given to him either as Deputy Block Development Officer or Block Development Officer. Therefore, the impugned orders are to be quashed and consequential direction has to be given to the respondent to confer the monetary benefits due to the petitioner with interest at the rate of 24% per annum from 19.2.02 till date of realization in full.

5. Per contra, Mr.Magesh, learned Special Government Pleader would submit that, the petitioner admittedly superannuated in the year 2002 as Extension Officer and only thereafter, in view of the proceedings issued by the first respondent, the second respondent, having considered the same, has conferred the retrospective promotion, of course notionally, ie., in the category of Deputy Block Development officer with effect from 19.02.1999 to 05.08.1999 and in the category of Block Development officer with effect from 06.08.1999 to 30.06.2002, and in this regard, the past service was taken as continuity of service for the purpose of pensionary benefits and

accordingly the pension was refixed to the petitioner and is being continuously paid. Therefore, there can no further grievance to the petitioner with regard to the same and hence the challenge made in this writ petition is untenable, he contended.

6. I have considered the submissions made by the learned counsel for the parties and have perused the materials placed on record.

7. As has been rightly pointed out by the learned Special Government Pleader, the petitioner, though retired on attaining superannuation in the year 2002, subsequently two promotions have been conferred on him, of course retrospectively.

8. When such promotions are conferred on the petitioner as Deputy Block Development officer with effect from 19.02.1999 and Block Development officer with effect from 06.08.1999, admittedly till his superannuation he did not work in that capacity. Hence, he would not be entitled to get any backwages and difference of pay. However, the said services can only be considered as notional service for the purpose of calculating the pensionary benefits. It has been rightly considered and ordered by the second respondent hence, this Court finds that there is absolutely no fault in the impugned order and the same is sustained. Consequently, the petitioner is not entitled to get the benefit of pay arrears for the said period, for which also he is drawing the pension. The only benefit the petitioner is entitled is the revised pensionary benefits for the notional promotion, which the petitioner had been paid and is being continuously paid.

9. Therefore, this Court feels that, the writ petition fails and the same is accordingly dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

KST

To

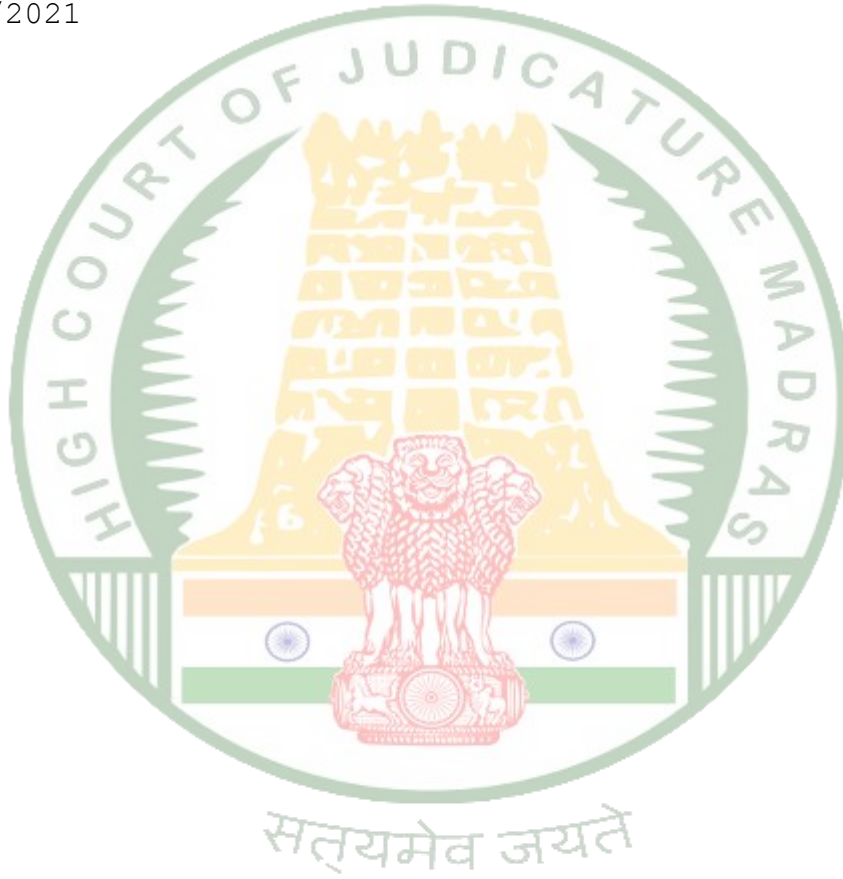
1.The District Collector
Villupuram District, Villupuram.

2.The Block Development Officer
Vikravandi Panchayat Union
Villupuram District, Villupuram.

+1cc to Mr.K.Magesh, Advocate, S.R.No.12437
+1cc to Mr.K.Raja, Advocate, S.R.No.12393
+1cc to the Government Pleader, S.R.No.12818

W.P.No.40893 of 2005

PL (CO)
KKV/18/03/2021



WEB COPY