

IN The HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2021

CORAM:

The HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8211 of 2021

K.Viswanathan

...Petitioner

-vs-

1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Rural Development and Panchayat Raj (E3) Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner,
Directorate of Rural Development and
Panchayat Raj (E3) Department,
Saidapet, Chennai-600 015.

3.The District Collector,
Thanjavur.

....Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents herein to forthwith grant increments to the petitioner and promotion to the petitioner as Executive Engineer by including the name of the petitioner in the senior list 2009 in Sl.No.24 with all attendant benefits.

For Petitioner : Ms.AL.Ganthimathi

For Respondents : Mr.P.V.Selvakumar,

Additional Government Pleader

O R D E R

This Writ petition is filed, seeking a direction to the respondents herein to forthwith grant increments and promotion to the petitioner as Executive Engineer by including his name in the seniority list 2009 in Sl.No.24 with all attendant benefits.

2. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice for the respondents. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. The brief facts of the case are that the petitioner was appointed as an Assistant Soil Conservation Officer in the Agricultural Department on 04.09.1986 through employment exchange and later he was selected by Tamil Nadu Public Service Commission as Assistant Engineer in the Rural Development Department and subsequently promoted to the post of Assistant Executive Engineer. While so, on 09.05.2008, he was placed under suspension and he offered his explanation to the charges and disciplinary proceedings initiated against him. Though the petitioner submitted his explanation to the findings of the Enquiry Officer, no orders were passed by the first respondent. Therefore, the petitioner has come to this Court with a writ petition in W.P. (MD) No.16581 of 2013 forbearing the first respondent from passing final orders on the charge memo issued against him. This Court, by an order dated 08.10.2013 allowed the writ petition directing the second respondent to pass final orders in the disciplinary proceedings. Pursuant to the said order, the first respondent by Government Order made in G.O. (D) No.15 dated 13.01.2014 arrived at a finding that all the charges against the petitioner were proved and imposed a punishment on the petitioner of stoppage of increment without cumulative effect for a period of six months.

4. The learned counsel for the petitioner submitted that all the juniors, who were placed below the petitioner, have already been promoted as Executive Engineers and even the other persons against whom charges were framed along with the petitioner in the year 2008, have also been promoted subsequently. Hence, the petitioner is entitled to get promotion as Executive Engineer.

5. According to the learned counsel for the petitioner, the petitioner has submitted a representation dated 31.12.2020 to grant increments and promotion to the petitioner as Executive Engineer by including his name in the seniority list 2009 in Sl.No.24 with all attendant benefits, but, the same is yet to be disposed of by the respondents. Learned counsel submitted that it would suffice, if the said representation made by the petitioner is directed to be considered and disposed of by the respondents on merits.

6. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 2nd respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representation preferred by the petitioner dated 31.12.2020, if not already disposed of and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 90 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondents shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 31.12.2020 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vum

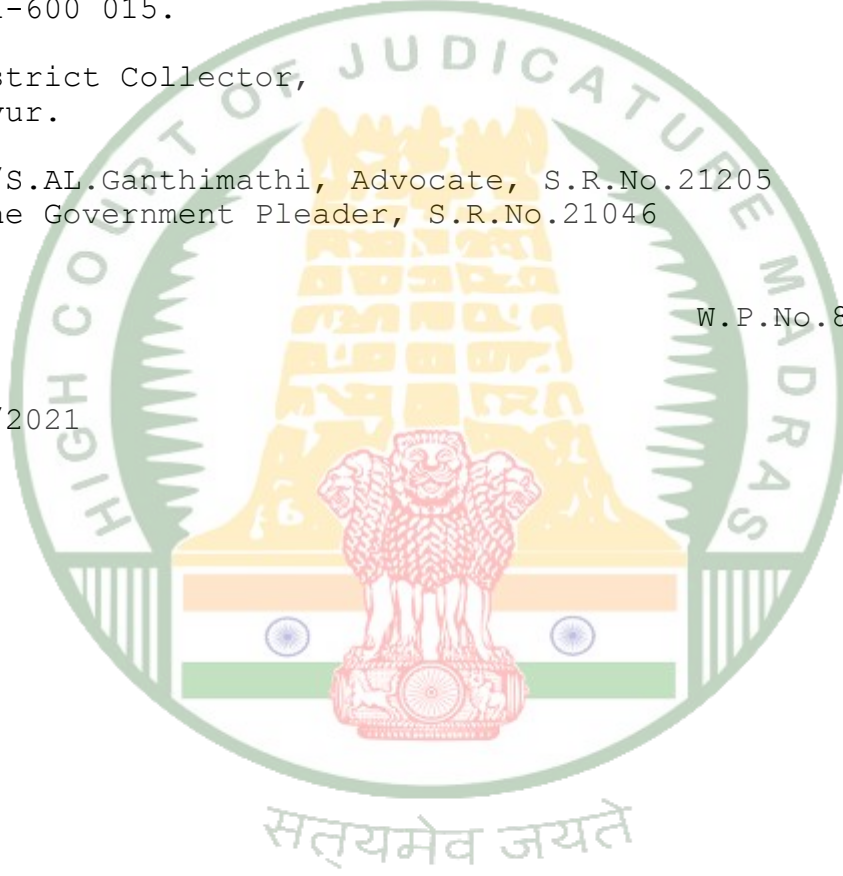
To

1. The Secretary to Government,
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2. The Commissioner,
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Panchayat Raj (E3) Department,
Saidapet,
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3. The District Collector,
Thanjavur.

+lcc to M/S.AL.Ganthimathi, Advocate, S.R.No.21205
+lcc to the Government Pleader, S.R.No.21046

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PL(CO)
KKV/02/06/2021



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