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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.6410 of 2017

and

W.M.P.Nos.6912 of 2017 & 40316 of 2018

V.Prabakaran

... Petitioner

Vs

1.The Secretary to Government,
Rural Development and Panchayat Raj,
Fort St.George, Chennai - 600 009.

2.The Director,
Rural Development and Panchayat Raj,
Panagal Building,
Saidapet, Chennai - 600 015.

3.The District Collector,
Vellore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to appoint the petitioner as Junior Assistant notionally in the year 2009 and place him in the appropriate place in the seniority list of 2007- 2008 vacancy and consequently promote him notionally in the post of Assistant and Deputy Block Development Officer on par with his immediate junior namely P.Manoharan.

For Petitioner : Mr.M.Muthappan

For R1 to R3 : Mr.S.Thangavel, Spl.Gp

ORDER

The relief sought in this writ petition is to direct the respondents to appoint the petitioner as Junior Assistant notionally in the year 2009 and include his name in the appropriate place in the seniority list for the year 2007- 2008 and consequently promote him notionally in the post of Assistant



and Deputy Block Development Officer on par with his immediate junior viz., P.Manoharan.

2. According to the petitioner, he joined as Night Watchman in the office of the District Rural Development through Employment Exchange. Subsequently, he was promoted as Record Clerk on 05.10.2005. Thereafter, he was promoted as Junior Assistant on 20.09.2012 and he joined duty as such on 05.10.2012 and his service was regularised with effect from 05.10.2012 and he was further promoted as Assistant on 09.11.2015. It is the grievance of the petitioner that though he is fully eligible and qualified to be appointed in the post of Junior Assistant for the year 2007-08 under 10% quota on rotation from the post of Record Clerk, as per G.O.Ms.No.189, Rural Development (E5) Department dated 10.06.1997 and his name was also recommended as per seniority by proceedings dated 13.07.2009, he was not appointed as Junior Assistant in the year 2009 for want of concurrence from the TNPSC and only after obtaining concurrence in the year 2012, he was appointed as Junior Assistant by transfer. In the mean while, the direct recruits who were appointed through TNPSC by special examination, in the year 2009 for the vacancy of the year 2007-08, were promoted as Assistant, by order dated 12.07.2012. Therefore, the petitioner made a detailed representation dated 18.11.2016, to the first respondent seeking notional promotion on par with his junior and fix his seniority in 2007-08 selection list to the post of Junior Assistant and further notional promotion as Assistant on par with his juniors, who were appointed in the year 2009-10. Finding no response on the said representation, he has come up with this writ petition for the aforesaid relief.

3. Upon notice, the 3rd respondent filed a detailed counter affidavit, inter alia stating that following the selection procedure for the post of Junior Assistant cadre as recruitment by transfer, the name of the petitioner was considered to promote him as a Junior Assistant for the year 2007-2008 among three persons; a proposal was also sent to the Director of Rural Development and Panchayat Raj vide proceedings dated 14.07.2009, which was also forwarded to the Secretary to Government, Rural Development and Panchayat Raj Department; consequently, the petitioner was appointed as Junior Assistant in the office of the Assistant Director of Rural Development (Audit), Vellore Division on 05.10.2012 and the seniority was fixed for the year 2014 as 63; thereafter, he was promoted as Assistant on 10.12.2015 and the seniority was fixed for the year 2017 as 157. It is further stated therein that the claim of the petitioner cannot be considered, since his junior P.Manoharan was appointed as Junior Assistant on 08.07.2003 as per Rule 11 of General



Rules for Tamilnadu State and Subordinate Service Rules, and in 2009 onwards, he was selected to the post of Junior Assistant by the TNPSC through special qualifying test. With these averments, the 3rd respondent sought to dismiss this writ petition.

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4. The averments made in the counter affidavit have been seriously opposed by the learned counsel for the petitioner. He further submitted that the petitioner would be satisfied, if the representation dated 18.11.2016 submitted by him is directed to be considered by the respondents, on merits, within a reasonable time to be fixed by this Court.

5. On the other hand, the learned Special Government Pleader appearing for the respondents has no serious objection for granting such relief to the petitioner.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the respondents to consider the petitioner's representation dated 18.11.2016, and pass appropriate orders, on merits and in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mtl



To

1.The Secretary to Government,
Rural Development and Panchayat Raj,
Fort St.George, Chennai - 600 009.

2.The Director,
Rural Development and Panchayat Raj,
Panagal Building,
Saidapet, Chennai - 600 015.

3.The District Collector,
Vellore.

+1CC to Mr.M.Muthappan, Advocates (SR No.18258)

+1CC to the Government Pleader (SR No.19182)

W.P.No.6410 of 2017

UM (CO)
PR (19/07/2021)