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W.P(MD)No.7519, 7526/2021, 16262,16267/2019 & 10742/2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)Nos.7519 & 7526 of 2021

and

W.M.P (MD)Nos.5686 & 5693 of 2021

and

W.P (MD)No.10742 of 2021

and

W.P (MD)Nos.16262 & 16267 of 2019

and

W.M.P (MD)Nos.12932, 12933, 12934,12935, 16491 & 16637 of 2019

W.P(MD)Nos.7519 & 7526 of 2021

Susila Peter

... Petitioner in W.P (MD)No.7519/2021

Muthupandian

... Petitioner in W.P (MD)No.7526/2021

Vs.

1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai-600 009.

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

3.The District Collector,
Tirunelveli District,
Tirunelveli.

4.C.Kulanthaimani

(R4 is impleaded vide Court Order
dated 12.07.2021 in
W.M.P (MD)Nos.8134 & 8618/2021
in W.P (MD)Nos.7519 & 7526 of 2021)

... Respondents in both writ petitions

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in proceedings Na.Ka.No.N2/36483/2016-(1) and (2), dated 14.07.2019 and quash the same and consequently direct the respondents to publish the revised seniority list by restoring the

<https://hcs.easynote.com/hcs/easynote.com>



petitioners' earlier seniority as mentioned in seniority list, dated 04.02.2003.

For Petitioners : Mr.K.Chellapandian,
(in both W.Ps) Senior Counsel for
Mr.K.Navaneetharaja
For R1 to R3 : Mr.K.S.Selvaganesan
Government Advocate
For R4 : Mr.V.Meenakshi Sundaram

W.P(MD)No.10742 of 2021

C.Kulanthaimani

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai-600 009.
- 2.The Principal Secretary to Government,
Public and Administrative Reforms Department,
Secretariat,
Chennai-600 009.
- 3.The Director,
Rural Development and Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai-600 015.
- 4.The District Collector,
Tirunelveli District,
Tirunelveli.
- 5.The District Collector,
Tenkasi District,
Tenkasi.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the fourth respondent herein in his proceedings in ந.க.எண்.ந.1/16539/2019, dated 12.08.2019 and quash the same as illegal and further direct the third respondent herein to consider the petitioner's representation dated 24.05.2021 and re-fix the seniority list of Assistant post and pass appropriate order fixing the petitioner's seniority in the appropriate place in the promotional panel for the post of Block Development Officer and consequentially award all monetary benefits in accordance with law, within a time stipulated by this Court.



For Petitioner : Mr.D.Nallathambi
For Respondents : Mr.K.S.Selvaganesan
Government Advocate

W.P(MD)Nos.16262 & 16267 of 2019

Susila Peter ... Petitioner in W.P(MD)No.16262/2019
Muthupandian ... Petitioner in W.P(MD)No.16267/2019

Vs.

1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai-600 009.

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

3.The District Collector,
Tirunelveli District,
Tirunelveli.

4.C.Kulanthaimani

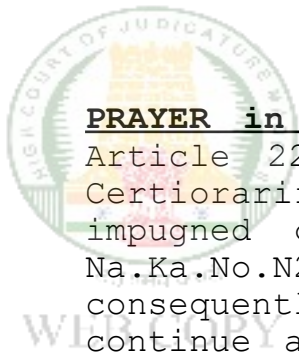
(R4 is impleaded vide Court Order
dated 23.07.2021 in
W.M.P(MD)Nos.15814 & 15815/2019)
in W.P(MD)Nos.16267 & 16262/2019)

5.V.Yamuna

(R5 is impleaded vide Court Order
dated 23.07.2021 in
W.M.P(MD)Nos.19446 & 19301/2019
in W.P(MD)Nos.16262 & 16267/2019)

... Respondents in both writ petitions

PRAYER in W.P(MD)No.16262 of 2019: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in proceedings Na.Ka.No.N2/21596/2019-(2) dated 18.07.2019 and quash the same and consequently direct the respondents to allow the petitioner to continue as Block Development Officer, Valliyoor, Tirunelveli District with all continuation.



PRAYER in W.P(MD)No.16267 of 2019: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in proceedings Na.Ka.No.N2/21596/2019-(1) dated 18.07.2019 and quash the same and consequently direct the respondents to allow the petitioner to continue as Block Development Officer, Sankarankovil, Tirunelveli District with all continuation.

For Petitioners : Mr.K.Chellapandian,
(in both W.Ps) Senior Counsel for
Mr.K.Navaneetharaja
For R1 to R3 : Mr.K.S.Selvaganesan
Government Advocate
For R4 : Mr.V.Meenakshi Sundaram
For R5 : Mr.G.Prabhu Rajadurai

COMMON ORDER

W.P(MD)Nos.7519 & 7526 of 2021 :-

The issues involved in these Writ Petitions are one and the same and therefore, these Writ Petitions are heard together and disposed of by way of this common order.

2.The petitioners in W.P(MD)No.7519 & 7526 of 2021 were appointed as Junior Assistant on 24.11.1994 and 28.04.1995 in Thanjavur District and Kanyakumari District respectively. Thereafter, their services were regularised from the date of their appointment and subsequently, they were promoted as Assistant on 18.11.1997 and 25.11.1997 respectively. On promotion, their seniority were fixed at Sl.Nos.496 & 497. The Petitioner in W.P(MD) No.7519 of 2021 sought mutual transfer with one Mr.Kannan, who was working as Assistant in Tirunelveli District and the petitioner in W.P(MD)No.7526 of 2021 sought mutual transfer with one Mrs.S.Anitha, who was working as Assistant in Tirunelveli District. The above said Kannan and Anitha are the seniors to the petitioners and they were in seniority list in Sl.Nos.481 & 485. The petitioners' request were considered and they were transferred on 21.03.2001 and 01.01.1999 respectively to Tirunelveli District. Subsequently, the third respondent published seniority list on 04.02.2003 and the petitioners were placed at Sl.Nos.496 and 497. The objections were called for from other persons regarding the fixation of seniority list and there was no objection against the seniority of the petitioners. The petitioners' names were enlisted in the panel for promotion to the post of Extension Officer and by order dated 03.07.2007, the petitioner in W.P(MD)No.7519 of 2021 was promoted as Extension Officer and by order dated 06.07.2007, the petitioner in W.P.(MD)No.7526/2021 was promoted as Extension Officer. Further, on 18.02.2009 the seniority list for Deputy Block Development Officers was published and the petitioners were at Sl.Nos.494 and 495. Since there was no objection for the said seniority list, the petitioners

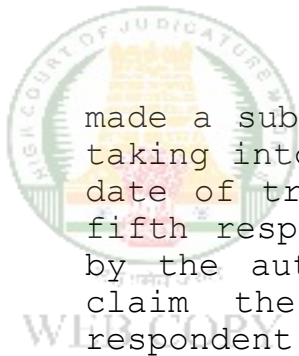


were promoted as Deputy Block Development Officers and subsequently, they were promoted as Block Development Officers on 10.03.2018 and now they are working as Block Development Officers.

3.The learned Senior Counsel appearing for the petitioners in W.P.(MD)Nos.7519 & 7526 of 2021 submitted that the petitioners were appointed as Junior Assistant in the year 1994 and 1995 in Thanjavur District and Kanyakumari District respectively. By mutual transfer, they were transferred to Tirunelveli District on 21.03.2001 and 01.01.1999 respectively. The third respondent published seniority list on 04.02.2003. From the date of initial appointment, their seniority was maintained and there was no objection with regard to seniority of the petitioners. Based on the seniority, they were promoted and their seniority was not challenged for the past 15 years. While so, the third respondent, without any notice to the petitioners, by the impugned order dated 14.07.2019, revised the seniority list, re-fixed the petitioners' seniority as 626(A) and 597(A) in the post of Assistant and 595 (A) and 574 (A) in the post of Deputy Block Development Officers, calculating the seniority from the date of their joining in the Tirunelveli District, instead of initial date of appointment. The interpretation given by the third respondent to Rule 20(b) (1) of the Tamil Nadu Ministerial Service Rules, is erroneous. The petitioners gave objection, dated 15.07.2019. The third respondent did not consider the same and did not pass any orders on the objections. Without considering the objections of the petitioners and passing orders on the objections, the third respondent passed the impugned order dated 18.07.2019 and the same was challenged in W.P(MD)Nos.16262 & 16267 of 2019. The learned Senior Counsel appearing for the petitioners further submitted that this Court granted an interim stay of the order of the third respondent, dated 18.07.2019. In view of the interim stay granted, the petitioners are continuing to work as Block Development Officers. The learned Senior Counsel appearing for the petitioners further submitted that without considering the objections dated 15.07.2019 submitted by the petitioners and without giving opportunity to the petitioners, the third respondent revised the seniority list and re-fixed the seniority of the petitioners, after 15 years and prayed for setting aside both impugned orders dated 14.07.2019 and 18.07.2019 and allowing the writ petitions.

4.The learned counsel appearing for the newly impleaded fourth respondent in W.P(MD)Nos.7519 & 7526 of 2021 submitted that the fourth respondent has given objection to the third respondent with regard to the seniority list and the third respondent, without giving any opportunity to the fourth respondent, rejected the same. The fourth respondent has filed a writ petition in W.P.No.10742/2021 challenging the said order of rejection and made various averments with regard to his seniority.

5.Mr.Prabhu Rajadurai, learned counsel appearing for the newly impleaded fourth respondent in W.P(MD)Nos.16262 & 16267 of 2019 also

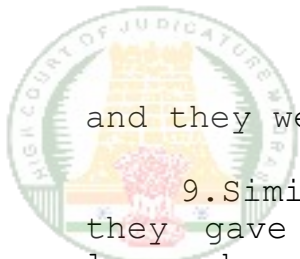


made a submission that the petitioners were given promotion wrongly taking into consideration their date of appointment instead of their date of transfer to Tirunelveli District and placed them above the fifth respondent viz., V.Yamuna and in view of the wrong committed by the authorities, the petitioners cannot take any advantage to claim the seniority and promotion over and above the fifth respondent in W.P(MD)Nos.16262 & 16267 of 2019 viz., Yamuna.

6.Mr.K.S.Selvaganesan, learned Government Advocate appearing for the Official Respondents submitted that when a person is transferred at his request to other District, the seniority has to be fixed only from the date of transfer to the said District. The third respondent considered the objections of fourth respondent in W.P.(MD)Nos.7519 & 7526 of 2021, the petitioner in W.P.(MD) No.10742 of 2021 and rejected the same by giving valid reason. The re-fixation of the seniority of the petitioners as per Rule 20(b)(i) of the Tamil Nadu Ministerial Service Rules is valid and legal and prayed for dismissal of the writ petitions.

7.Heard the learned Senior Counsel appearing for the petitioners, the learned Government Advocate appearing for the official respondents, the learned counsels appearing for the newly impleaded respondents and learned counsel for petitioner in WP (MD) No.10742 of 2021 and perused the materials available on record.

8.From the materials on record, it is seen that the petitioners in W.P(MD)Nos.7519 & 7526 of 2021 were appointed as Junior Assistant in 1994 and 1995 in Thanjavur District and Kanyakumari District respectively. Subsequently, they were promoted as Assistant on 18.11.1997 and 25.11.1997 respectively. The petitioners, by mutual consent, were transferred from Thanjavur District and Kanaykumari District to Tirunelveli District on 21.03.2001 and 01.01.1999 respectively. Even after such transfer, the seniority of the petitioners were maintained at Srl.Nos.496 and 497 in the seniority list of Assistant published on 04.02.2003. According to the petitioners, the seniority of the petitioners were fixed, taking into consideration the date of their initial appointment and the same has not been challenged for more than 15 years. Based on the said seniority, the petitioners were promoted as Extension Officers/Deputy Block Development Officers and Block Development Officers. In the seniority list of Deputy Block Development Officers, the petitioners' seniority were fixed at Srl.Nos.494 & 495. Even in the said list also, there was no objection and the petitioners were promoted as Block Development Officers on 10.06.2019. The grievance of the petitioners is that without giving opportunity to them, by wrong interpretation of Rule 20(b)(i) Tamil Nadu Ministerial Service Rules, their seniority were re-fixed at Srl.Nos.626 and 597(A). The said submission is not disputed by the respondents 1 to 3. It is not the case of the respondents 1 to 3 that before re-fixing the seniority and reverting the petitioners to Deputy Block Development Officers, notices were issued



and they were given opportunity to put forth their case.

9. Similarly, it is the case of the impleaded respondents that they gave objections to the seniority list. According to the learned counsel appearing for the impleaded fourth respondent, the petitioner in W.P.(MD)No.10742 of 2021, the third respondent - District Collector, Tirunelveli District, in violation of rules and the Government Orders, promoted the juniors to the petitioner in W.P.(MD)No.10742 of 2021 and promoted ineligible persons. The fourth respondent also filed W.P.(MD)No.10742 of 2021 challenging the order of rejection of his objection. It is not in dispute that the petitioners as well as the impleaded respondents were not given any opportunity to put forth their case. From the typed set of papers filed by the petitioners, it is seen that the petitioners' seniority were re-fixed on 14.07.2019 and within four days, the petitioners were reverted by the impugned order dated 18.07.2019 to the post of Deputy Block Development Officers. The petitioners gave objections on 15.07.2019 and no order was passed on the said objections. Without passing any order on the objections, by impugned order dated 18.07.2019, the petitioners were reverted to the post of Deputy Block Development Officers.

10. Considering the above materials, the impugned order in W.P (MD)Nos.7519 & 7526 of 2021 and the impugned order made in W.P(MD) No.10742 of 2021 are set aside. The third respondent is directed to give an opportunity to the petitioners, impleaded respondents and other aggrieved persons for personal hearing, if any required, and pass orders, within a period of eight weeks from the date of receipt of a copy of this order.

11. In view of setting aside the order dated 14.07.2019 re-fixing the seniority of the petitioners, the impugned order dated 18.07.2019 made in W.P(MD)No.16262 & 16267 of 2019 reverting the petitioners to the post of Deputy Block Development Officers, is also set aside.

12. In so far as W.P(MD)Nos.16262 & 16267 of 2019 are concerned, this Court by the order dated 22.07.2019 granted interim stay and in view of the said interim order, they are continuing as Block Development Officers.

13. In view of the above, all the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

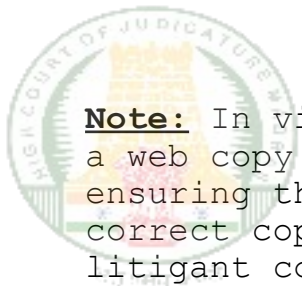
Sd/-

Assistant Registrar (CS II)

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/ /2021

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To

1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai-600 009.

2.The Principal Secretary to Government,
Public and Administrative Reforms Department,
Secretariat,
Chennai-9.

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

4.The District Collector,
Tirunelveli District,
Tirunelveli.

5.The District Collector,
Tenkasi District,
Tenkasi.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-23846[F] dated
26/07/2021)

+2 CC to M/s.K.NAVANEETHARAJA, Advocate (SR-23932[F] dated
27/07/2021)

W.P. (MD) Nos.7519 & 7526 of 2021

and

W.P (MD) No.10742 of 2021

and

W.P (MD) Nos.16262 & 16267 of 2019

23.07.2021

RS (27.08.2021) 8P 9C