



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.8558 of 2021

and

W.M.P (MD) Nos.6439 & 6440 of 2021

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R.Sankaranarayanan

... Petitioner

-Vs-

- 1.The State of Tamil Nadu,
Represented by its Addl. Chief Secretary,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai-9.
- 2.The Secretary to Government,
Personnel Administrative Reforms (M) Department,
Secretariat, Chennai-9.
- 3.The Director,
Rural Development and Panchayat Raj Department,
Panagal Maligai,
Chennai-9.
- 4.The District Collector,
Madurai District,
Madurai.
- 5.The Block Development Officer (Block Panchayat),
Madurai East Panchayat Union,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified mandamus, calling for the records relating to the G.O(3P) No.23, Rural Development and Panchayat Raj (E3) Department, dated 09.04.2018 issued by the first respondent and quash the same in so far as imposing the condition that writ petitioner is not entitled for promotion and consequently direct the respondents to promote the petitioner as Deputy Block Development Officer on par with his juniors in service with all consequential monetary and service benefits.

For Petitioner	: Mr.J.Anandkumar
For R1 to R4	: Mr.R.Murugaraj Government Advocate
For R5	: Mr.A.Karthick Government Advocate



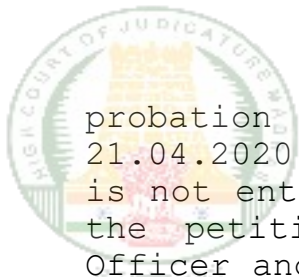
ORDER

This Writ Petition is filed to call for the records relating to G.O.(3P) No.23, Rural Development and Panchayat Raj (E3) Department, dated 09.04.2018, issued by the first respondent and quash the same insofar as imposing the condition that writ petitioner is not entitled for promotion and consequently direct the respondents to promote the petitioner as Deputy Block Development Officer on par with his juniors in service with all consequential monetary and service benefits.

2. Mr.R.Murugaraj, learned Government Advocate takes notice on behalf of the respondents 1 to 4 and Mr.A.Karthick, learned Government Advocate takes notice on behalf of the fifth respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner was appointed as Junior Assistant on compassionate ground on 14.03.2007. The qualification prescribed for Junior Assistant is 10th standard. The third respondent sent proposal to the second respondent on 18.06.2009 for considering the petitioner's qualification as equal to the requisite qualification of 10th standard. The second respondent in turn forwarded the same to the first respondent on 09.09.2009. The first respondent has not passed any orders. Therefore, the petitioner filed a writ petition in W.P(MD)No.1250 of 2018 for direction to regularise his service. This Court, by order, dated 21.02.2018, directed the respondents therein to regularise the service of the petitioner with effect from 17.03.2007 and also granted all the consequential benefits. The respondents therein have not filed any appeal against the said order and the same has become final. After the order of this Court, the first respondent, by the impugned Government Order in G.O.(3P) No.23, Rural Development and Panchayat Raj (E3) Department, dated 09.04.2018, regularised the service of the petitioner with effect from 17.03.2007, on condition that he will not be entitled to any promotion, though he is entitled to increments and other benefits, referring G.O.Ms.No.107, Public and Administrative Reforms Department, dated 18.08.2009.

4. According to the learned counsel for the petitioner, Government Order referred in the impugned G.O., is not applicable to the petitioner. The Government Order applicable to the petitioner is G.O.Ms.No.528, Public and Administrative Reforms Department, dated 18.05.1985. In this regard, the petitioner has given representation, dated 30.05.2018. The petitioner filed a writ petition in W.P(MD)No.6579 of 2019 for a direction to modify the condition imposed that he is not entitled to promotion as stated in the regularisation order. While the writ petition was pending, the Secretary to Government, by letter, dated 21.03.2019, stated that the petitioner's request will be considered. The petitioner's



probation was declared, vide G.O.1P.No.RD and PR Department, dated 21.04.2020. The said Government Order carries the condition that he is not entitled for promotion. In the meantime, all the juniors to the petitioner was given promotion as Deputy Block Development Officer and hence, he has come out with the present writ petition to set aside the condition imposed in G.O.(3P) No.23, Rural Development and Panchayat Raj (E3) Department, dated 09.04.2018, regularising the petitioner.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 4 and the learned Government Advocate appearing for the fifth respondent.

6. From the above materials, it is seen that when the petitioner was appointed on compassionate ground, he was fully qualified as per the qualification prescribed for the posts of Junior Assistant, as the Pre- Foundation Course is equivalent to 10th Standard as per G.O.Ms.No.528 P & AR Department, dated 18.05.1985. The fourth respondent being satisfied with the educational qualification of the petitioner, sent proposal to the second respondent on 18.06.2009 and the second respondent forwarded the same to the first respondent on 09.09.2009, for regularising the petitioner's service. The first respondent did not pass any orders for more than 9 years. Only after the order of this Court, by common order, dated 21.02.2018 directing the first respondent for regularising the service of the petitioner with effect from 14.03.2007, the first respondent by the Government Order in G.O. (3P) No.23, Rural Development and Panchayat Raj (E3) Department, dated 09.04.2018, regularised the service of the petitioner with effect from 14.03.2007, but erroneously imposed the condition that the petitioner is not entitled to any promotion, referring G.O.Ms.No.107, Public and Administrative Reforms Department, dated 18.08.2009, holding that the petitioner was not having educational qualifications for promotion. The first respondent erroneously relied on G.O.Ms.No.107, Public and Administrative Reforms Department, dated 18.08.2009, which relates to the persons, who acquired degree without passing +2 from Open Universities.

7. In the present case, at the time of appointment of the petitioner, the qualification prescribed for appointment to the post of Junior Assistant is 10th Standard. As per G.O.Ms.No.528, P & AR Department, dated 18.05.1985, Pre-Foundation Course conducted by Madurai Kamaraj University, is equivalent to 10th Standard. Therefore, the petitioner possessed requisite educational qualification for being appointed as Junior Assistant and consequently entitled to all the eligible promotions. In view of the above, the condition imposed by the first respondent in G.O.(3P) No.23, Rural Development and Panchayat Raj (E3) Department, dated 09.04.2018, is erroneous and the same is liable to be set aside and



8. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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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.

To

- 1.The Additional Chief Secretary,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai-9.
- 2.The Secretary to Government,
Personnel Administrative Reforms (M) Department,
Secretariat, Chennai-9.
- 3.The Director,
Rural Development and Panchayat Raj Department,
Panagal Maligai,
Chennai-9.
- 4.The District Collector,
Madurai District,
Madurai.
- 5.The Block Development Officer (Block Panchayat),
Madurai East Panchayat Union,
Madurai.

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-17867[F] dated 28/04/2021)

+1 CC to M/s.SPL GP (SR-18074[F] dated 29/04/2021)

W.P. (MD) No.8558 of 2021
28.04.2021

PM(CO)

KB(09.06.2021) 4P 8C