



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2021

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THE HON'BLE MR.JUSTICE T. S. SIVAGNANAM
and
THE HON'BLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.390 of 2018
and C.M.P. (MD)No.2409 of 2018

1.The State of Tamil Nadu,
Represented by its
Secretary to Government,
Public Works Department,
Chennai - 600 009.

2.The Superintending Engineer,
Public Works Department,
Water Resources Organization,
Keel Vaigai Basin Section,
Sivaganga.

3.The Executive Engineer,
Public Works Department,
Water Resources Organization,
Manimuthar Basin Division,
Devakottai Post,
Sivaganga District.

...Appellants/Respondents
1 to 3

-Vs-

M.Subramanian

...Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letter Patent against the order dated 03.03.2017 made in W.P.(MD)No.6823 of 2012.

Prayer in WP(MD). 6823/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 3rd Respondent in proceedings Se.Mu.Ka.No.461/E2/2012 dated 30.04.2012 and quash the same and consequently direct the respondents to grant Scale of Pay to the Petitioner as fixed in the year 2009 at the rate of Rs.6440 + 2400.



For Appellants : Mr.N.Shanmuga Selvam,
Addl. Govt. Pleader
For Respondent : Mr.M.Saravana Kumar

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JUDGMENT

[Judgment of the Court was made by **T. S. SIVAGNANAM, J.,**]

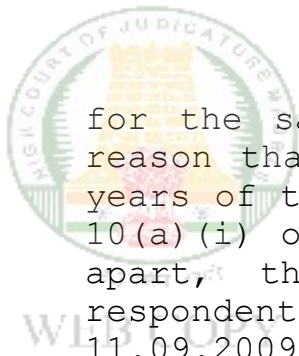
This Writ Appeal by the State is directed against the order passed in W.P.(MD)No.6823 of 2012, dated 03.03.2017, filed by the respondent herein.

2. The said Writ Petition was filed to quash the order passed by the third appellant dated 30.4.2012 and consequently, grant scale of pay to the respondent/writ petitioner as fixed in the year 2009 at the rate of Rs.6400 + 2400. The learned Single Bench, by the impugned order, has allowed the writ petition and quashed the proceedings issued by the third appellant. The State is aggrieved by the said order and on an appeal before us.

3. We have elaborately heard Mr.N.Shanmuga Selvam, learned Additional Government Pleader appearing for the appellants and Mr.M.Saravanakumar, learned counsel appearing for the respondent/writ petitioner.

4. The short issue which falls for consideration is whether the salary initially fixed and paid to the respondent/writ petitioner, by reckoning the date of joining as 11.09.2009, after he qualified in the Special Qualifying Test conducted by the TNPSC was right or whether the department's contention that the salary should be fixed reckoning the date as 10.01.2011, the date on which he has produced the medical certificate is to be reckoned.

5. The learned Single Bench, after noting the fact that the respondent/writ petitioner had been appointed on 12.09.2007 under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules and had been continuously working without any break in service, thereby making him eligible to participate in the Special Qualifying Test conducted by the TNPSC, during March 2009, allowed the writ petition. The respondent/writ Petitioner having been successful in the said test was reappointed by the District Collector concerned on 11.09.2009, in the appellants' Department as Typist and on the same day joined duty. Thus, the respondent/writ Petitioner having been become eligible to appear



for the said Qualifying Test conducted by the TNPSC is for the reason that the respondent had completed the requisite number of years of temporary service, pursuant to his appointment under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules. That apart, the Department has not disputed the fact that the respondent had been re-allotted by the District Collector on 11.09.2009, only after he has been successful in the Special Qualifying Test. The reason assigned by the appellants for fixing the date as 10.01.2011 is on the ground that the respondent/writ petitioner produced the medical certificate only on the said date. This was rightly rejected by the learned Single Bench by stating that such reason is totally unjustifiable because of the undisputed factual position, which we have also noted and as noted by the learned Writ Court also. Further more, learned Writ Court was also right in observing that the respondent/writ petitioner is not a freshly appointed candidate that too from 10.01.2011. Thus, we find that the reason assigned by the learned Writ Court does not call for any interference.

6. In the result, this Writ Appeal is dismissed and the order passed in the Writ Petition is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)

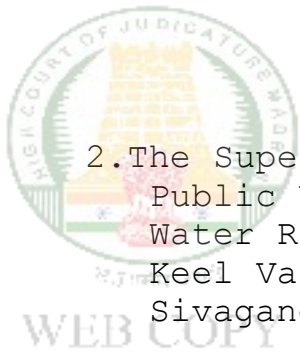
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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant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

To

1.The Secretary to Government of Tamil Nadu,
Public Works Department,
Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Superintending Engineer,
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Water Resources Organization,
Keel Vaigai Basin Section,
Sivaganga.

3.The Executive Engineer,
Public Works Department,
Water Resources Organization,
Manimuthar Basin Division,
Devakottai Post,
Sivaganga District.

+1 CC to Mr.M.SARAVAKUMAR, Advocate (SR-18177[F] dated
30/04/2021)

+1 CC to SPL GP (SR-18268[F] dated 30/04/2021)

W.A. (MD) No.390 of 2018
29.04.2021

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