



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A(MD)No.1540 of 2018

and

C.M.P(MD)Nos.10974 of 2018 & 9681 of 2019

The District Collector,
Collectorate,
Ramanathapuram District.

... Appellant/Respondent

Vs.

1.R.Sundararajan

... 1st Respondent/Writ
Petitioner

2.A.N.Gokulnath

3.K.Ramasubramanian

4.M.Mehala

... Respondents 2 to 4/
Respondents 2 to 4

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 27.03.2018 made in W.P(MD)No.2070 of 2018 on the file of this Court.

Prayer in WP(MD). 2070/ 2018 :

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 passed by the respondent in Na.Ka.A2/3009/2015 dated 19.06.2015 in so far as placing the petitioner in Sl.no. 161 and the consequential appeal rejection order passed in Na.Ka.A2/3009/2015 dated 11.05.2016 and quash the same and consequently direct the respondent herein to re fix the petitioners seniority as Sl.No. 44(a) below Thiru.S.Balakrishnan and above Sl.No. 45 Thiru A.N.Gokulnath in the impugned seniority list and consider the petitioner's case for promotion to the post of Deputy Tahsildar list and consider the petitioner's case for promotion to the post of Deputy Tahsildar for the year 2017 with all consequential, monetary and service benefits.

For Appellant

: Mr.K.P.Krishna Dass
Special Government Pleader

For R - 1

: Mr.H.Arumugam

For RR 2 to 4

: Dismissed

(Vide Order dated 14/10/2019)



JUDGMENT

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

We have heard Mr.K.P.Krishna Dass, learned Special Government Pleader appearing for the appellant and Mr.H.Arumugam, learned counsel appearing for the first respondent.

2.Though the respondents 2 to 4 have been served, the prayer sought for as against the respondents 2 to 4 has already been dismissed for default by order, dated 04.10.2019.

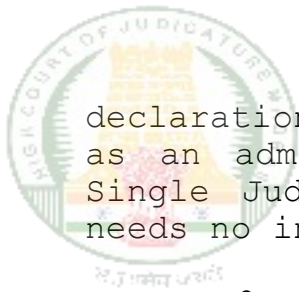
3.This Writ Appeal is directed by the District Collector, Ramanathapuram, as against the order passed by the learned Single Judge in W.P(MD)No.2070 of 2018, dated 27.03.2018.

4.The said Writ Petition was filed by the first respondent herein challenging the order passed by the appellant, dated 19.06.2015 placing the first respondent below the respondents 2 to 4 herein in the seniority list on the ground that the first respondent/writ petitioner came to Ramanathapuram District on requested transfer and it was a one way transfer and the condition stipulated in the transfer order states that the first respondent should be fixed in the bottom most in the seniority list of the Revenue Assistants already working in Ramanathapuram District.

5.The first respondent/writ petitioner joined as a Revenue Assistant in Pudukkottai District on 04.01.2010 and on one way transfer, he joined as Revenue Assistant in Ramanathapuram District on 05.04.2013, but he was placed before the respondents 2 to 4 in the seniority list. The first respondent filed an appeal challenging the fixation, which was rejected and challenging the order rejecting the first respondent's appeal, the Writ Petition was filed.

6.The learned Single Judge allowed the Writ Petition noting that the respondents 2 to 4 were not approved probationers and therefore, the first respondent should be placed above them.

7.In the memorandum of grounds of Writ Appeal filed by the District Collector, it is admitted that the probation of the respondents 2 to 4 were declared subsequently and it is only an administrative delay. The said submission cannot be countenanced for two reasons. Firstly, unless and until the probation is approved and an unapproved probationers acquires no indefensible or permanent right to public employment and their services are liable to be disengaged without even assigning any reasons by way of a termination simpliciter. The second reason is that the respondents 2 to 4 joined as Revenue Assistants on 02.03.2012, 13.04.2012 and 01.03.2012 respectively and the probation can be declared only after completion of satisfactory service for two years and therefore, the



declaration of probation can at no stretch of imagination be treated as an administrative delay. Therefore, we find that the learned Single Judge had rightly allowed the Writ Petition and the same needs no interference.

8. In view of the above, the Writ Appeal fails and the same is dismissed. In view of the direction issued by the learned Single Judge in the Writ Petition, which was confirmed in this Judgment, the appellant is directed to revise the seniority list by placing the first respondent above the respondents 2 to 4 within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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

The District Collector,
Collectorate,
Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-15824[F] dated 15/04/2021)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-16091[F] dated 16/04/2021)

W.A(MD)No.1540 of 2018
09.04.2021

MJ(CO)
KB(22.04.2021) 3P 4C