



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.1464 of 2017

WEB COPY

C.Thangarajan

... Appellant/Petitioner

Vs.

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Block Development Officer,
Thiruvattar Panchayat Union,
Thiruvattar,
Kanyakumari District.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 11.09.2017 made in W.P(MD)No.17094 of 2017 on the file of this Court.

Prayer in WP(MD). 17094/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the 1st respondent to promote the petitioner as Block Development Officer notionally by fixing his seniority above his juniors and may disburse the respective benefits to him accessioned by law.

For Appellant : Mr.A.Balakrishnan

For Respondents : Mr.P.Mahendran

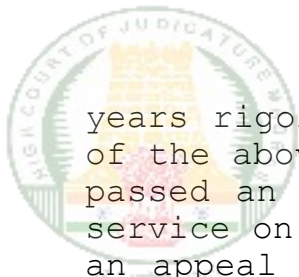
Additional Government Pleader

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

The Writ Appeal is directed against the order passed by the learned Single Judge in W.P(MD)No.17094 of 2017, dated 11.09.2017, wherein, the appellant/writ petitioner had sought for a Mandamus, directing the first respondent to promote him as Block Development Officer notionally by fixing his seniority above his juniors and disburse the respective benefits to him.

2.The appellant was serving as an Extension Officer at Thiruvattar Panchayat Union. During the year 1999, he had indulged in a criminal case on the file of the Suchindram Police Station in Crime No.504 of 1999, which culminated into S.C.No.241 of 1999, on the file of the Assistant Sessions Court, Padmanabhapuram, in which, he was convicted along with others and sentenced to undergo seven



years rigorous imprisonment along with fine of Rs.1,000/-. In view of the above conviction, the first respondent/District Collector had passed an order of suspension and the appellant was dismissed from service on 13.07.2006. In the meanwhile, the appellant had preferred an appeal in CrI.A.No.73 of 2006 before the Sessions Court, Mahila Court, Nagercoil, which was allowed on the basis of 'benefit of doubt' on 17.05.2016.

3. In view of the order of acquittal, the first respondent had revoked the order of suspension and also the dismissal order. The appellant was also permitted for deemed retirement on attaining the age of superannuation on 31.03.2006 retrospectively. The appellant was also involved in a vigilance case, wherein, he was charged with Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, by the first respondent in proceedings, dated 09.08.1996 in connection with the demand and acceptance of bribe from beneficiaries of Integrated Rural Development Project (IRDP). In view of the same, the appellant was also imposed with a punishment of reduction in rank i.e., from Extension Officer to Rural Welfare Office Grade-I, for a period of three years and on restoration, increment shall be postponed with cumulative effect to the extent that he was downgraded to the post of Rural Welfare Officer Grade-I. The reversion from the post of Extension Officer to Rural Welfare Officer Grade-I was issued on 05.02.2003 and the appellant has also joined duty in the reverted post on 14.02.2003. After completion of three years, he was re-promoted to the post of Extension Officer on 17.02.2006 and the appellant had joined duty on 20.02.2006.

4. It is also further stated that on restoration of reversion, the appellant's increment cut ordered in the Government Order was effective for three years i.e., till 31.03.2006, which is the date of his superannuation.

5. Admittedly, the appellant had not filed any appeal against the said punishment. While so, an acquittal order was passed in favour of the appellant in Criminal Appeal No.73 of 2006 on 17.05.2016. On the strength of the acquittal order, the first respondent had passed an order on 29.09.2016, setting aside the order of dismissal on 30.09.2016 and permitted the appellant to retire retrospectively from 31.03.2006. Now, the appellant is seeking promotion as Block Development Officer notionally by fixing his seniority.

6. It is pointedly argued by the learned Additional Government Pleader that the appellant was undergoing major punishment of reversion and again on restoration of the increment cut, he had also suffered yet another punishment as per order, dated 13.12.2005. It is also not in dispute that both the punishments were in force, till the date of superannuation of the appellant on 31.03.2006.



7.The learned Single Judge has specifically found that in view of the above facts, the appellant is not entitled to ask for promotion on par with his juniors, when he had already attained the age of superannuation as early as on 31.03.2006 based on the order of acquittal and after a passage of 10 years, he cannot demand for a promotion. As mentioned supra, the appellant had suffered two other punishment, which was in force till his age of retirement.

8.In the light of the above, the appellant has no legal right to seek promotion on par with his juniors, after 10 years. Therefore, we find no merits in the Writ Appeal to interfere with the order passed by the learned Single Judge and the same is confirmed and the Writ Appeal stands dismissed. No costs.

Sd/-

Assistant Registrar (CSIII)

// 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

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Block Development Officer,
Thiruvattar Panchayat Union,
Thiruvattar,
Kanyakumari District.

+1 CC to M/s.A.BALA KRISHNAN, Advocate (SR-7443[F] dated 26/02/2021)

+1 CC to M/s.SPL GP (SR-7504[F] dated 26/02/2021)

W.A (MD)No.1464 of 2017
25.02.2021

NA (CO)

KB(11.03.2021) 3P 5C

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