



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.02.2021**

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.A. (MD)No.1516 of 2019

and

CMP(MD) .No.12084 of 2019

- 1.The Director of Social Welfare,
O/o the Director of Social Welfare,
Saidapet, Chennai.
- 2.The Joint Director of Social Welfare (Administration)
O/o. the Joint Director of Social Welfare,
Chennai.
- 3.The Social Welfare Officer,
O/o. the Social Welfare Officer,
Panagal Maligai
Saidapet, Chennai-15
- 4.The District Project Officer,
O/o the District Project Officer,
Multi Department Complex,
Behind Theni New Bus Stand,
Theni
- 5.The Child Development Officer,
O/o. the Child Development Office
Theni Rural, Theni.
- 6.The Administrative Officer,
O/o. the Child Development Office,
Theni Rural,
Theni District.

: Appellants

Vs.

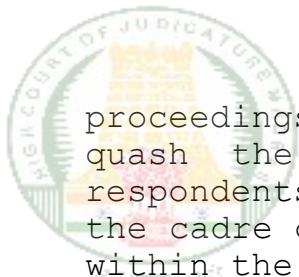
S.Nagaraj

: Respondent

PRAYER: writ Appeal filed under Clause 15 of the Letters Patent against the order of this Court in W.P.(MD) No.20087/2019 dated 19.09.2019.

Prayer in WP(MD). 20087/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 3rd respondent vide his impugned proceedings Na.Ka.No.10566 / Nir 4(2) / 2019 dt.26/06/2019 and the consequential Impugned Order passed by the 3rd respondent in his



proceedings in Na.Ka.No.31911 / Niru4(1) / 2017 dt.30/08/2019 and quash the same as illegal and consequentially to direct the respondents to disburse the retirement benefit of the petitioner in the cadre of Junior Assistant along with an accrued interest thereon within the period that may be stipulated by this court.

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For Appellants : Mrs.J.Padmavathi Devi
Special Government Pleader
For Respondent : Mr.H.Mohammed Imran
for M/s. Ajmal Associates

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The appeal is preferred against the order of the learned single Judge, who, while setting aside the impugned order passed, directed the appellants to grant the benefits by treating him as Junior Assistant.

2.The order passed by the learned single Judge is sought to be assailed on two grounds, namely, probation has not been completed as Junior Assistant and there is a lack of qualification. On both these grounds, the appeal deserves to be dismissed.

3.The probation has not been declared on the ground of lack of qualification. Admittedly, the respondent was appointed as Junior Assistant in the year 2010, thereafter he has worked for seven years. Even on the date of retirement, he was working as Junior Assistant. The Government order, which declares pre-foundation course is not equivalent to 10th standard, has come into being in the year 2017. That is the reason why the probation has not been declared. Even otherwise, the appellants are non suited on the ground of acquiescence. It is not as if the respondent sought for promotion. The promotion has been given by the appellants being themselves. Having done so, they cannot deny the consequential pensionary benefits. Admittedly, the respondent has worked as Junior Assistant, even at the time of retirement.

4. Accordingly, the writ appeal stands dismissed. The pension will have to be computed as per the order of the learned Single Judge within eight weeks from the date of receipt of a copy of this order in the cadre of Junior Assistant. No costs. Consequently the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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Theni Rural, Theni.

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O/o. the Child Development Office,
Theni Rural,
Theni District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-7101[F] dated
25/02/2021)

+1 CC to M/s.SPL GP (SR-7297[F] dated 25/02/2021)

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KB(08.03.2021) 3P 9C