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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.25407 OF 2007

D.Ekanatha Naidu

...Petitioner

-Vs-

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development Department,
Secretariat, Chennai - 600 009.
2. The Director of Rural Development,
Panagal Building, Saidapet,
Chennai - 600 015.
3. The District Collector,
Tiruvallur District, Tiruvallur.
4. The District Collector,
Kancheepuram District,
Kancheepuram.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 3rd respondent herein to forthwith pay notional benefits viz. difference in salary in the post of Assistant, Extension Officer, Deputy Block Development Officer, Block Development Officer, Assistant Director and Joint Director based on the notional promotion granted to the petitioner by the respondents herein with due interest till the date of actual payment. (Prayer amended vide order dated 17.11.2021 made in WMP.No.20806 of 2020 in WP.No.25407 of 2007)

For Petitioner : Mr.V.R.Rajasekaran

For Respondents : Mr.Veda Bagath Singh,
Special Government Pleader



ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

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2. The petitioner herein had earlier joined the services of Agriculture Department as a Village Level Worker and subsequently transferred as Gramasevak Grade-II in the Rural Development Department. When an anomaly arose in the seniority of the petitioner with the other employees, orders were passed by the Tamil Nadu Administrative Tribunal, which ultimately was dealt with by an Hon'ble Division Bench of this Court in a batch of writ petitions in W.P.Nos.19960 to 19962 of 1998, etc., dated 19.04.2005 in the case of Tamil Nadu Government (Converted) RWO Association Vs. The State of Tamil Nadu, Rural Development Department and others, whereby the authorities were directed to fix the seniority of the employees, such as the petitioner herein, in accordance with the law laid down in that judgment with retrospective effect from the date on which their seniority ought to have been fixed, but for the order of the Tribunal.

3. In accordance with the orders of the Hon'ble Division Bench, the seniority list was appropriately revised and the petitioner herein was granted with a notional promotion to the posts of Assistant, Extension Officer, Deputy Block Development Officer, Block Development Officer, Assistant Director and Joint Director and thereafter, his pay scales were also revised.

4. When the petitioner had reached the age of superannuation, he was permitted to retire and all the benefits, in accordance with the notional promotions extended to him. However, the respondents had not paid the difference of salaries from the date on which the notional promotion was granted to him for the aforesaid posts. Claiming difference in the salaries for the respective posts, the present writ petition has been filed.

5. The learned counsel for the petitioner submitted that since the Hon'ble Division Bench of this Court had directed for revision of the seniority list and notional promotion with benefits, the respondents are not justified in denying the difference of wages for the notionally promoted posts.

6. Per contra, the learned Special Government Pleader appearing for the respondents placed reliance on Ruling 17 of the Fundamental Rule 27 and submitted that since the petitioner had not physically assumed charge in the notionally promoted posts, he would not be entitled for the difference in pay and allowances.



7. The objections of the respondents cannot be sustained for the simple reason that reliance on Ruling 17 under the Fundamental Rules, which is a Government Order in G.O.Ms.No.977, Personnel and Administrative Reforms (FR.III) dated 06.10.1986, cannot be made, since the notional promotion, together with benefits, was directed by an Hon'ble Division Bench of this Court.

8. Fundamental Rules cannot supercede Court directions, which has become final and which was also given effect to by permitting the petitioner notionally, together with revision of his pay scales. When this Court had directed the revision of seniority list and the consequential pensionary benefits, there was a duty cast on the respondents to pay the difference of wages for the various posts, to which the petitioner was notionally promoted, without reference to the fact that the petitioner had not physically performed the duty in the promoted posts. As such, the objections raised by the learned Special Government Pleader in this regard, cannot be sustained.

9. The learned counsel for the petitioner further submitted that, since the respondents had failed to pay the difference of wages, for which they were legally entitled to, they are bound to pay interest on the due amount. In support of such a claim, the petitioner placed reliance on a decision of the Hon'ble Division Bench of this Court in the case of The Collector, Dharmapuri District Vs. N.Murugan passed in W.A.No.3024 of 2003 dated 05.01.2005, as well as the decision the Hon'ble Supreme Court in the case of D.D.Tewari Vs. Uttar Haryana Bijli Vitran Nigam Limited and others reported in (2014) 8 SCC 894. In these decisions, it has been held that when the delay in paying the dues of a Government employee, who was legally bound to receive it, is attributed to the employer, they would be entitled for interest on such belated payment.

10. In the light of the above observations, the petitioner is granted liberty to give a representation to the respondents herein seeking for difference in salaries and allowances, together with interest, to the posts of Assistant, Extension Officer, Deputy Block Development Officer, Block Development Officer, Assistant Director and Joint Director and on receipt of such a representation, the respondents shall consider the same, in the light of the observations made in this order and pass appropriate orders, within a period of three (3) months from the date of receipt of such a representation. This Court is of the view that while the respondents pass an order on the petitioner's representation, they shall also take into account the decisions cited above, for the purpose of payment of



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interest. Accordingly, the Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

hvk

To

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State of Tamil Nadu,
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2. The Director of Rural Development,
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RGN(CO)
RLP(24/03/2022)