



WEB COPY



W.P.Nos.8040 & 8041 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.Nos.8040 & 8041 of 2018
and
W.M.P.Nos.10016 & 10017 of 2018

R.Venkatraj ...Petitioner in W.P.No.8040 of 2018

L.Venkatraman ...Petitioner in W.P.No.8041 of 2018

-Vs-

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development and Panchayat
Raj Department,
Fort St. George, Chennai - 9.

2.Director,
Commissionerate of Rural Development
and Panchayat Raj,
Panagal Building, Chennai - 15.

3.District Collector,
Tirunelveli District, Tirunelveli. ...Respondents in both WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of the
Constitution of India, praying to issue Writ of Certiorarified Mandamus,



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calling for the entire records relating to G.O.(U) No.478, Rural Development and Panchayat Raj (Q-1) department dated 26.09.2017 on the file of the 1st respondent herein and quash the same insofar as the same relates to the petitioners herein and consequently direct the respondents herein to forthwith promote the petitioners herein notionally with all consequential monetary benefits in the post of R.W.O Grade-I / Assistant, Extension Officer, Deputy Block Development Officer, Block Development Officer and then Assistant Director on par with their junior based on revised seniority and pay arrears of difference in pay and pension in accordance with law.

(in both WPs)

For Petitioners : Mr.V.R.Rajasekaran

For Respondents : Mr.M.Shahjahan,
Special Government Pleader

COMMON ORDER

Since the issue involved in both the writ petitions is one and the same, with the consent of both the parties, the following common order is passed.

2. Both the petitioners herein had joined the Agricultural Department in the post of Village Level Worker and Agricultural Assistant Grade-II respectively on 05.05.1965 and 07.05.1965. The Government had taken a



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policy decision to absorb 415 Village Level Workers, including the petitioners herein, as Gramasevak Grade-II in the Rural Development Department. Pursuant to the orders passed by the Hon'ble Division Bench of this Court in the case of ***Tamil Nadu Government (Converted) RWO Association Vs. The State of Tamil Nadu, Rural Development Department*** passed in ***W.P.Nos.19960 to 19962 of 1998, etc. dated 19.04.2005*** and the subsequent dismissal of the Special Leave Petition preferred by them on 24.08.2009, a revised seniority list was published by the third respondent/ District Collector on 04.09.2013, by giving effect to the orders of the Hon'ble Division Bench.

3. Both the petitioners were periodically granted notional promotions to the posts of Assistant/Rural Welfare Officer Grade-I, Extension Officer (Social Forestry), Extension Officer (Planning), Extension Officer (Panchayat), Deputy Block Development Officer, Additional Block Development Officer and Block Development Officer. The petitioners had retired from service from the post of Block Development Officer on 28.02.2003 and 31.10.2002 respectively.



4. Since they were not granted these promotions on par with their juniors, they filed writ petitions before this Court in W.P.Nos.2562 & 2563 of 2017, seeking for notional promotion to the post of Block Development Officer and this Court, by its order dated 02.02.2017, had directed the respondents to consider the representations in this regard. Pursuant to such directions, the Government, in G.O.(1D) No.478, Rural Development and Panchayat Raj Department, dated 26.09.2017, had rejected the claim of the petitioners for notional promotion by stating that they do not possess the required service qualification on the crucial date to seek notional promotion on par with their juniors. Challenging the said order, the present writ petitions have been filed.

5. The learned counsel for the petitioners submitted that while the petitioner in W.P.No.8040 of 2018 served as a Rural Welfare Officer Grade-I between 19.06.1992 to 27.05.1993 and was short only by 25 days, the petitioner in W.P.No.8041 of 2018 was not allowed to serve for one year in the post of Extension Officer (Panchayat), since he was promoted to the post of Deputy Block Development Officer on 26.06.1998. The mistake on the part of the respondents in not retaining the petitioners in the post for one year



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should not be put against them. The learned counsel placed reliance on G.O.(K.Dis) No.652, Rural Development and Panchayat Raj Department, dated 30.12.2010; G.O.(K.Dis) No.54, Rural Development and Panchayat Raj Department, dated 04.02.2011 and G.O.(K.Dis) No.51, Rural Development and Panchayat Raj Department, dated 27.01.2015 and submitted that in identical circumstances, the Government had relaxed the one year service condition and had granted promotions to the employees therein.

6. The learned Special Government Pleader for the respondents placed reliance on the averments in the counter affidavit and submitted that the petitioners should not be promoted to the next higher post on par with their juniors, since they had not fulfilled the service qualification as required under Rule 3 of the Tamil Nadu Rural Development Sub-ordinate Service Rules, which prescribes that an employee is required to put in a minimum of one year service in the respective posts.

7. I have given careful consideration to the submissions made by the respective counsels.



8. The objections raised by the respondents herein that the petitioners do not possess the service qualification and therefore would not entitled to be promoted to the higher posts, may not have much force, since several employees, including the juniors of the petitioners herein, have been granted relaxation by the Government and accommodated to the higher posts. While that being so, I do not find any justification on the part of the respondents in discriminating the petitioners herein and quoting that they have not complied with the service qualification under Rule 3. While the petitioners' seniority is revised on the basis of the orders passed by the Hon'ble Division Bench, there cannot be any impediment on the part of the respondents to deny the notional promotion to the petitioners for the post for which they seek for, in view of the stand taken by the Government for identically placed persons, who have been granted relaxation and the consequential promotions.

9. The petitioners herein have provided copies of G.O.(K.Dis) No.652, dated 30.12.2010; G.O.(K.Dis) No.54, dated 04.02.2011 and G.O.(K.Dis) No.51, dated 27.01.2015, wherein such relaxation have been granted to identically placed persons. While that being so, the petitioners herein would also be entitled for similar relaxation.



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10. In the instant case, the petitioner in W.P.No.8040 of 2018 lacks 25 days of service to complete one year in the post of Rural Welfare Officer Grade-I and the petitioner in W.P.No.8041 of 2018 lacks a little less than one year in the post of Extension Officer (Panchayat). It is seen from the impugned order that while the petitioner in W.P.No.8040 of 2018 was serving as a Rural Welfare Officer Grade-I and was about to complete one year after 25 days, he was posted as an Extension Officer (Social Forestry) on 27.05.1993. Likewise, the petitioner in W.P.No.8041 of 2018, while serving as an Extension Officer (Panchayat) from 15.06.1998 to 25.06.1998, was promoted as a Deputy Block Development Officer on 26.06.1998. The non-service of one year in these two posts is not the fault of the petitioners herein, rather, the respondents had not retained them in the same post for a period of one year, which is a requirement under Rule 3. Thus, the mistake on the part of the respondents cannot be put against the petitioners and therefore, they would be entitled for relaxation, like in the case of similarly placed employees for whom the Government had extended the benefit.

11. It requires to be mentioned herein that pursuant to the orders passed by the Hon'ble Division Bench and the dismissal of the Special Leave



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Petition by the Hon'ble Supreme Court, the District Collector had revised the seniority list on 04.09.2013 and the same was forwarded to the Government/ first respondent herein. However, the Government had kept the same pending for more than four years and ultimately, on 26.09.2017, had rejected the petitioners' request for notional promotion, which rejection order has now held to be unsustainable and illegal. In this background, this Court is of the view that the petitioners would be entitled for interest on the monetary benefits from 04.09.2013, i.e. the date on which the District Collector had revised the seniority and forwarded the same to the Government.

12. In the light of the above findings, the impugned order dated 26.09.2017 is quashed. Consequently, there shall be a direction to the respondents herein to notionally promote the petitioners herein to the post of Rural Welfare Officer Grade-I/Assistant, Extension Officer, Deputy Block Development Officer and Block Development Officer on par with their immediate junior, together with all consequential monetary benefits. Such orders shall be passed by the respondents atleast within a period of 8 weeks from the date of receipt of a copy of this order.



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13. Insofar as the claim made by the petitioners for notional promotion to the post of Assistant Director is concerned, it is seen that it is the Government which has to prepare the revised seniority list for the said post and thereafter, the petitioners' notional promotion requires consideration. In this regard, the petitioners are granted liberty to approach the Government by way of a representation seeking for notional promotion to the post of Assistant Director alone and on receipt of such a representation, the first respondent shall consider the same, in the light of the above findings and pass appropriate orders on its own merits and in accordance with law, within a period of 3 months from the date of receipt of such a representation.

14. Accordingly, both the writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

15.12.2022

Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order
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To

- 1.The Secretary to Government,
Rural Development and Panchayat
Raj Department,
Fort St. George, Chennai - 9.
- 2.The Director,
Commissionerate of Rural Development
and Panchayat Raj,
Panagal Building, Chennai - 15.
- 3.The District Collector,
Tirunelveli District, Tirunelveli.



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M.S.RAMESH,J.

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