



W.P.No.5378 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.5378 of 2017
and
W.M.P.No.5710 of 2017

R.G.Elangovan

...Petitioner

-Vs-

1.Government of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development & Panchayat
Raj Department,
Fort St. George, Chennai - 600 009.

2.The Director of Rural Development,
Office at Panagal Maaligai,
Saidapet, Chennai - 600 015.

3.The District Collector,
Nagapattinam,
Nagapattinam District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records which culminated in the order passed in G.O. (Pa) No.103, Rural Development and Panchayat (E6) Department, dated 18.02.2015, quash the



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same and consequently direct the respondents to confer notional promotion to the petitioner in the cadre of Assistant with effect from 14.03.2000 on par with his juniors and also the consequential benefit of promotion to the post of Deputy Block Development Officer and block Development Officer with all consequential service and monetary benefits within a time frame.

For Petitioner : Mr.S.Mani

For Respondents : Ms.Meera Arumugam,
Additional Government Pleader

ORDER

Heard Mr.S.Mani, learned counsel for the petitioner and Ms.Meera Arumugam, learned Additional Government Pleader for the respondents.

2. The petitioner herein had originally joined the respondent Department as Junior Assistant on 27.03.1984. His services were regularized on 14.01.2000, with effect from 27.03.1984. When a promotional panel for the post of Assistant was drawn in the year 2000, his name was included. However, his candidature was not considered for promotion on the ground that his probation was not declared. Thereafter, on 27.01.2003, the petitioner's probation was declared with effect from 31.05.1999.



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Subsequently, the petitioner was promoted to the post of Assistant on 19.06.2003 and thereafter to the promotional posts of Deputy Block Development Officer and Block Development Officer.

3. When the petitioner herein had sought for promotion to the post of Assistant with effect from the panel for the year 2000, the respondents have rejected the same on the ground that his junior's probation was declared prior to the petitioner and also that the department action under Rule 17(a) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules (hereinafter referred to as 'the Rules') was pending on the crucial date.

4. The learned counsel for the petitioner submitted that the pendency of the departmental proceedings under Rule 17(a) of the Rules cannot be a bar for consideration of promotion. Even otherwise, the charge memo under Rule 17(a) was framed only in 2010 and the same was also dropped on 21.04.2016. This apart, it is further submitted that when the petitioner's probation has been declared with effect from 31.05.1999, he is entitled to be included in the promotional panel.



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5. Per contra, the learned Additional Government Pleader placed reliance on the impugned order and submitted that since the departmental action under Rule 17(a) was pending and also that the petitioner's junior's probation was declared prior to the petitioner, he is not entitled to seek for retrospective promotion.

6. Insofar as the reasoning adopted by the first respondent in the impugned order that the petitioner's junior's probation was declared prior to the petitioner is concerned, the same cannot be sustained for the simple reason that when the petitioner's probation was declared with effect from 31.05.1999, he requires to be treated as a declared probationer from that date only. Hence, his name automatically requires to be considered in the panel drawn in the year 2000 and his name should be placed above his immediate junior.

7. The second reasoning adopted by the first respondent in the impugned order that the pendency of the charges under Rule 17(a) is concerned, Schedule-XI, Rule II (4) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, provides that, issuance of a show cause



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notice or charges framed under rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules against a member of service shall not be a bar for inclusion of his name in the approved list. When the Act itself provides for such inclusion of the name in the promotional panel, the reasoning in the impugned order in this regard cannot be sustained.

8. In the light of the above findings, the petitioner herein would be entitled for notional promotion to the post of Assistant, on par with his immediate junior.

9. In the result, the impugned order dated 18.02.2015 is quashed. Consequently, there shall be a direction to the first respondent to forthwith pass orders, notionally promoting the petitioner to the post of Assistant in the panel drawn for the year 2000, on par with his immediate junior and also for the consequential promotions to the posts of Deputy Block Development Officer from 06.07.2005 and Block Development Officer from 27.10.2015, together with all service and monetary benefits. Such orders shall be passed, within a period of six weeks from the date of receipt of a copy of this order.



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10. The Writ Petition stands thus allowed. No costs. Consequently,

connected miscellaneous petition is closed.

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Index:Yes/No

Internet:Yes/No

Speaking order/Non-speaking order

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To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Rural Development & Panchayat
Raj Department,
Fort St. George, Chennai - 600 009.
- 2.The Director of Rural Development,
Office at Panagal Maaligai,
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M.S.RAMESH,J.

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