



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.A(MD)No.404 of 2011

and

M.P.(MD)No.1 of 2011

The District Collector,
Thoothukudi District,
Thoothukudi.

... Appellant/1st respondent

Vs.

1.S. Velmail,
Formerly Extension Officer(Administration),
Srivaikuntam Panchayat Union,
Now Deputy Block Development Officer (Admn.),
Collectorate (Development),
Thoothukudi District.

... 1st Respondent / Petitioner

2. Thiru P. James Nirmal Roase,
Extension Officer(Scheme),
Panchayat Union, Sathankulam.

3. Thiru C. Kathiresan,
Extension Officer (NMP),
Panchayat Union, Kayathar.

4. Thiru S. Ananda Narayanan,
Extension Officer (ADW),
Panchayat Union, Thiruchendur.

5. Tmt. P. Petchiammal,
Extension Officer(NMP),
Panchayat Union, Karungulam.

6. Thiru U. Subramanian,
Extension Officer (NMP),
Panchayat Union, Sathankulam.



7. Tmt. S. Subbulakshmi,
Extension Officer (Admn.),
Panchayat Union, Ottapidaram.

8. Thiru S. Balasubramanian,
Extension Officer (Scheme),
Panchayat Union, Pudur.

9. Thiru K.S. Veerabaghu,
Extension Officer (SS),
Panchayat Union, Thoothukudi.

10. Thiru K. Rajamani,
Extension Officer (Scheme),
Panchayat Union, Koilpatti.

11. Tmt. P. Packiam Leela,
Extension Officer (Pt),
Panchayat Union, Karungulam.

12. Thiru S. Palani Velumurugan,
Extension Officer (Pt),
Panchayat Union, Sathankulam.

13. Thiru A. Murugiah,
Extension Officer (Pt),
Panchayat Union, Srivaikuntam.

14. Thiru S. Subbiah,
Extension Officer (Pt.),
Panchayat Union, Ottapidaram.

15. Thiru S. Ganapathi,
Extension Officer (Pt),
Panchayat Union, Thoothukudi.

16. Tmt. P. Vasantha,
Extension Officer (Scheme),
Panchayat Union, Tiruchendur.

17. Thiru. M. Muthu Krishnan,
Extension Officer (Pt),
Panchayat Union, Pudur.

18. Tmt. E. Tamil Selvi,
Extension Officer (Pt),
Panchayat Union, Tiruchendur.

19. Thiru M. Arumugam,
Extension Officer (Pt),
Panchayat Union, Ottapidaram.



20. Thiru R. Rajan,
Extension Officer (Pt),
Panchayat Union, Alwarthirunagari.

21. Tmt. P. Padma,
Extension Officer (Pt),
Panchayat Union, Kovilpatti.

22. Thiru E.S. Nesamani Rajendran,
Extension Officer (Pt),
Panchayat Union, Kayathar.

23. Tmt. M. Leema Rose,
Extension Officer (ADW),
Panchayat Union, Karungulam.

24. Thiru S. Ramasamy,
Extension Officer (Scheme),
Panchayat Union, Kayathar.

25. Thiru S. Murugan,
Extension Officer (Accts.),
Collectorate (Development),
Thoothukudi.

26. Tmt. I. Selvi,
Extension Officer (ADW),
Panchayat Union, Thoothukudi.

27. Thiru K. Sankara Narayanan,
Extension Officer (SS),
Panchayat Union, Kovilpatti.

28. Tmt. M. Paramasivan,
Extension Officer (SS),
Panchayat Union, Ottapidaram.

...Respondents 2 to 28/Respondents 2 to 28

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.3695 of 2005, dated 27.01.2011.

Prayer in WP(MD). 3695/ 2005 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent to connection with the impugned order vice Proceedings No. V14/97308/03 dated 29/12/2004 and quash the same and consequently direct the first respondent to fix the correct



seniority by placing the petitioners name above the individual respondents 2 to 28.

For Appellant : Mr.C.Satheesh,
Government Advocate

For Respondents : No Appearance - RR2 to 28
: Mr.P.Mahendran - RR1

JUDGMENT

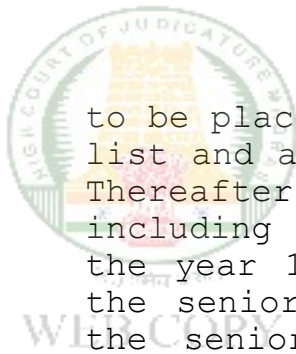
R.SUBRAMANIAN, J.
AND
N.SATHISH KUMAR, J.

Challenge in this Writ Appeal is to the order of the learned Single Judge allowing the writ petition in W.P.(MD)No.3695 of 2005, thereby quashing the order of the District Collector / appellant herein, dated 29.12.2004, in and by which, the appellant had rejected the request of the writ petitioner / first respondent herein to be placed in the seniority list above the name of Tmt.Padma and directing the appellant to fix the first respondent's correct seniority as per the earlier orders, above respondents 2 to 28.

2. Heard Mr.C.Satheesh, learned Government Advocate appearing for the appellant and Mr.P.Mahendran, learned counsel appearing for the first respondent.

3. The first respondent/writ petitioner was appointed as a Junior Assistant on 05.02.1986 on compassionate grounds. A seniority list was published on 03.08.1992, wherein, the first respondent's date of regularization was taken as 31.07.1989 and he was assigned with seniority No.289(b). The first respondent made a representation to the District Collector, seeking re-fixation of the seniority and claiming that he should be deemed to have been regularized from 05.02.1986, namely, the date of his initial appointment. By an order, dated 12.12.1997, the appellant had accepted the claim of the first respondent and ordered that he shall be deemed to have been regularized w.e.f. 05.02.1986.

4. On 05.05.1999, the appellant released the draft seniority list for the post of Junior Assistant. In the said draft seniority list, the first respondent figured at Sl.No.173 and his date of regularization was shown as 05.02.1986. The first respondent/ petitioner objected to the same and made a representation, seeking revision of his seniority on the basis of his date of initial appointment. This request was accepted by the appellant on 20.01.2000 and the first respondent name was directed



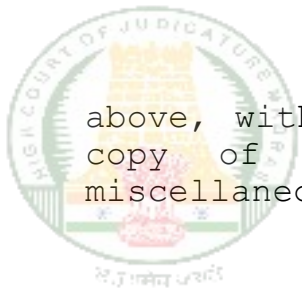
to be placed at Sl.No.202(a) instead of 289(b) in the 1992 seniority list and at Sl.No.107(a) instead of 173 in the 1999 seniority list. Thereafter, the appellant had passed an order on 20.12.2000 including the name of the first respondent in the priority list for the year 1991 and the first respondent was shown as Sl.No.2(e) in the seniority list for the year 1991. However, subsequently, when the seniority list was published for the year 2003, the first respondent's name which ought to have figured between Sl.Nos.18 and 19, was shown at Sl.No.80. The first respondent made a representation to the appellant/District Collector, seeking re-fixation of the seniority as per the earlier orders passed. The appellant, however, rejected the said request on the ground that the first respondent's probation was declared later than that of Mrs.Padma, who was placed above the first respondent, the request of the first respondent cannot be accepted. This order was challenged by the first respondent in the above said writ petition.

5. This Court, after considering the case of the first respondent / writ petitioner found that the failure on the part of the authority to declare probation cannot be a ground to deny the seniority to the first respondent. It was also found that the earlier orders that were passed by the appellant/District Collector, re-fixing the seniority were not challenged by any of the other employees or private respondents 2 to 28 in the writ petition. Since the orders re-fixing the seniority had become final, this Court held that the District Collector was not right in rejecting the request of the first respondent for re-fixation of his seniority.

6. Mr. C.Satheesh, learned Government Advocate appearing for the appellant would submit that since the probation of the first respondent was declared later than that of the said Padma, the first respondent cannot be placed above the said Padma.

7. The learned Single Judge has pointed out that failure to declare probation cannot affect the seniority. In fact, the appellant/District Collector, himself has passed orders, accepting the fact that the failure to declare probation was a mistake and the same should be rectified. Specific orders have been passed placing the first respondent above the private respondents 2 to 28 and those orders have not been challenged by them. In fact, the private respondents 2 to 28 have not chosen to contest the claim of the first respondent in the writ petition.

8. We therefore, do not see any ground to interfere with the order of the learned Single Judge. We should also point out that if at all any one is aggrieved by the order of the learned Single Judge, it is the private respondents 2 to 28 and they have not chosen to challenge the order of the writ Court. Hence, this Writ Appeal fails and accordingly the same stands dismissed. The appellant/District Collector, is directed to comply with the orders of the learned Single Judge and re-fix the seniority as directed



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WA(MD)No.404 of 2011

above, within a period of two months from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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

The District Collector,
Thoothukudi District,
Thoothukudi.

+1 CC to M/s.SPL GP (SR-8310[F] dated 24/02/2022)

W.A(MD)No.404 of 2011

23.02.2022

RK(09/03/2022) 6P 3C