



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Thursday, the Seventeenth day of February Two Thousand and Twenty
Two

PRESENT

The Hon`ble Mr.Justice S.M.SUBRAMANIAM

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W.M.P.(MD) No.2791 of 2022 and W.M.P.(MD) No.545 of 2022
in W.P.(MD) No.674 of 2022

W.M.P. (MD) No.2791 of 2022 :

- 1 THE STATE OF TAMIL NADU
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT
RURAL DEVELOPMENT AND PANCHAYAT DEPARTMENT
FORT ST.GEORGE
CHENNAI-09
- 2 THE DIRECTOR
RURAL DEVELOPMENT AND PANCHAYATRARJ DEPARTMENT
PANAGAL BUILDING SAIDAPET
CHENNAI-015
- 3 THE DISTRICT COLLECTOR
TIRUNELVELI DISTRICT COLLECTORATE
TIRUNELVELI
- 4 THE BLOCK DEVELOPMENT OFFICER (VILLAGE PANCHAYAT)
RADHAPURAM PANCHAYAT UNION OFFICE
RADHAPURAM POST.
TIRUNELVELI DISTRICT

... PETITIONERS/RESPONDENTS 1 TO 4/
RESPONDENTS 1 TO 4

Vs

- | | |
|------------------|--|
| 1. A.SUBRAMANIAN | ... RESPONDENT/PETITIONER/PETITIONER |
| 2. R.BASHEER | |
| 3. G.KANNAN | ... 2 nd & 3 rd RESPONDENTS/5 th &6 th RESPONDENTS
/5 th & 6 th RESPONDENTS |

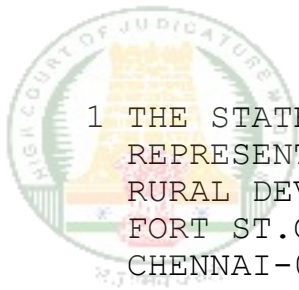
Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to vacate the interim order of stay granted in the common order in WMP (MD) No.545 of 2022 in W.P.(MD)No.674 of 2022 dated 19-01-2022.

W.M.P. (MD) No.545 of 2022

A.SUBRAMANIAN

... PETITIONER/PETITIONER

Vs



1 THE STATE OF TAMIL NADU
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT
RURAL DEVELOPMENT AND PANCHAYAT DEPARTMENT
FORT ST.GEORGE
CHENNAI-09

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TIRUNELVELI

4 THE BLOCK DEVELOPMENT OFFICER (VILLAGE PANCHAYATS)
RADHAPURAM PANCHAYAT UNION OFFICE
RADHAPURAM POST
TIRUNELVELI DISTRICT.

5 R.BASHEER

6 G.KANNAN

... RESPONDENTS/RESPONDENTS

To stay the Operation of the impugned orders passed by the 1st Respondent in Letter No..12299/E6 (2)/2021-5 dated 21.09.2021 and the consequential order passed by the 3rd Respondent in his proceedings in Na.Ka.No. 11/22441/2021-1 dated 04.12.2021 and Na.Ka.No. 11/22441/2021-2 dated 04.12.2021 and Na.Ka.No. 11/22441/2021-3 dated 04.12.2021 pending disposal of the Writ Petition.

W.P. (MD) No.674 of 2022 :

A.SUBRAMANIAN

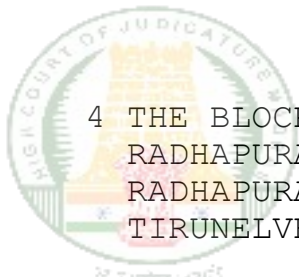
... PETITIONER

Vs

1 THE STATE OF TAMIL NADU
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT
RURAL DEVELOPMENT AND PANCHAYAT DEPARTMENT
FORT ST.GEORGE
CHENNAI-09

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RADHAPURAM PANCHAYAT UNION OFFICE
RADHAPURAM POST
TIRUNELVELI DISTRICT.

5 R.BASHEER

6 G.KANNAN

... RESPONDENTS

To issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of writ to call for the records in pursuant to the impugned orders passed by the 1st Respondent in Letter No.12299/E6 (2)/2021-5 dated 21.09.2021 and the consequential order passed by the 3rd Respondent in his proceedings in Na.Ka.No. M1/22441/2021-1 dated 04.12.2021 and Na.Ka.No. M1/22441/2021-2 dated 04/12/2021 and Na.Ka.No. M1/22441/2021-3 dated 04/12/2021 and Quash the same and consequently Direct the Respondents 1 to 4 to grant all attendant and monetary benefits to the Petitioner in the cadre of Deputy Block Development Officer.

ORDER : These petitions coming up for orders on this day, upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of MR.VEERAKATHIRAVAN, Additional Advocate General Assisted by MR.N.SATHEESH KUMAR, Additional Government Pleader for the Petitioner 1 to 3 in WMP(MD) No.2792 of 2022 and for the Respondents 1 to 3 in WMP(MD) No.538 of 2022 & WP (MD) No.671 of 2022 and of MR.D.S.NEDUNCHIZIAN, Advocate for the 4th Petitioner in WMP(MD) No.2792 of 2022 and for the 4th Respondents in WMP(MD) No.538 of 2022 & WP(MD) No.671 of 2022 and MR.T.LAJAPATHY RAI, Advocate for the Respondent 2 & 3 in WMP(MD) No.2792 of 2022 and for the Respondents 5 & 6 in WMP(MD) No.538 of 2022 & WP(MD) No.671 of 2022 and MR.M.SARAVANAKUMAR, Advocate for the 1st Respondent in WMP(MD) No.2792 of 2022 and for the 1st Petitioner in WMP(MD) No.538 of 2022 & WP(MD) No.671 of 2022, the court made the following order:-

The orders impugned relating to the correction of date of probation and consequential reversion are under challenge in the present writ petition.

2.The learned Additional Advocate General appearing on behalf of the State mainly contended that the authorities are in the process of fixing the *inter se* seniority between the eligible employees from amongst the direct recruitees and promotees. The said progress is yet to be concluded and the case of the writ petitioner is to be considered only after ascertaining his eligibility with reference to the date which is to be reckoned for the purpose of seniority.

3.The learned Additional Advocate General pointed out that an error crept in the matter of declaration of probation and the said error is not a clerical error. Correction of error cannot cause any grievance



for the employees, as the right can be ascertained only with reference to the correct date of probation, which is to be fixed for the purpose of seniority.

4.The learned counsel for the writ petitioner strenuously opposed by stating that the writ petitioner was already promoted based on the probation and now he is working as Deputy Block Development Officer and therefore, his promotion is to be protected and the order of reversion is to be assailed.

5.The learned counsel appearing on behalf of the contesting respondents sailing with the State contended that the writ petitioner in his own affidavit has admitted that he has passed the requisite Departmental Examinations in December 2012, after the crucial date for promotion and therefore, the writ petitioner is not entitled for any relief from the hands of this Court.

6.Considering the arguments, this Court is of the opinion that the service rights of the employees are to be protected with reference to the rules in force. Absolutely, there is no bar for the competent authorities to correct the errors in Service Records or otherwise at any point of time. No doubt, if there is any dispute in the matter of fixation of seniority, that is to be resolved by way of adjudication. However, for correcting the mistake, the same may be done at any point of time, with reference to the orders or proceedings already passed or in force. In other words, if the date of appointment, date of probation or date of passing the requisite examination are entered erroneously, such errors can be corrected by the competent authorities at any point of time and correction of errors would not provide any cause for developing a right.

7.Correction of error would not constitute a cause or provide a service right for an employee, based on erroneous entry in records, no employee can claim any promotion or seniority.

8.Let us consider whether it is correction of error or re-declaration of probation to the disadvantage of the writ petitioner. Even in the affidavit filed in support of the petition, in para 3, the writ petitioner has stated that he has completed all the departmental tests on 23.12.2011 and he has completed the Bhavanisagar Training from 27.03.2012 to 25.05.2012. However, the writ petitioner admittedly was promoted to the post of Assistant on 01.02.2014, and thereafter, promoted to the post of Deputy Block Development Officer on 03.11.2017. The above dates are admitted by the writ petitioner. Therefore, this Court has to go by the admitted facts given by the writ petitioner for the purpose of understanding whether it is a case of correction of error or adjudication regarding fixation or declaration of date of probation.



9.The crucial date for promotion to the post of Assistant was 15.03.2012. The panel for the year of 2012 was published thereafter. The name of the writ petitioner was included in the panel of the year 2012 and admittedly, he was promoted to the post of Assistant on 01.02.2014. However, as on the crucial date of 15.03.2012, even as per the affidavit filed by the writ petitioner in support of the writ petition, he was not qualified, as he has not completed the requisite departmental tests and also the Bhavanisagar Training. When the writ petitioner has not passed the departmental tests and not completed the training, he is not eligible for inclusion in the panel of the year 2012 and he may be eligible for inclusion in the panel of the year 2013, as he has completed the test in the year 2012. Thus, there was an error in the matter of considering the case of the writ petitioner and his name was erroneously included in the panel of the year 2012, which certainly affected the rights of all other eligible persons, who were eligible to be included in the panel of the year 2012.

10.This being the admitted factum, the writ petitioner's name was erroneously included in the panel contrary to the fact regarding the passing of departmental test and the Bhavanisagar Training, which is a mistake crept in during the relevant point of time and therefore, the writ petitioner is eligible for promotion to the post of Assistant only in the panel of the year 2013. Therefore, the Department has to follow the rules uniformly in respect of all employees including the contesting respondents. However, the authorities competent while fixing the *inter se* seniority between direct recruits and promotees has to follow the rules scrupulously and ensure that correct date of appointment/regularization is to be taken into consideration. Therefore, the case on hand is apparent that there was a mistake crept in including the name of the writ petitioner in the panel of the year 2012 for promotion to the post of Assistant, as admittedly, the writ petitioner was not qualified for inclusion in the panel of the year 2012 even as per his own affidavit. This being the factum, the official respondents are bound to correct the mistakes and issue revised panel or otherwise in accordance with the rules.

11.As far as the fixation of *inter se* seniority is concerned, it is to be strictly fixed by following the rules in force. This being the dispute, this Court is of an opinion that during the pendency of the writ petition, the official respondents shall consider all the aspects and fix the *inter se* seniority and settle the disputes between the employees in order to avoid further multiplicity of proceedings in the matter of correction of errors and fixation of *inter se* seniority. With these directions, the interim stay granted on 19.01.2022 stands vacated and the writ petition is directed to be listed for hearing after four weeks.



12. Accordingly, W.M.P. (MD) No.2791 of 2022 is allowed.
Consequently, W.M.P. (MD) No.545 of 2022 is dismissed.

sd/-
17/02/2022

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/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

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STATE OF TAMIL NADU
RURAL DEVELOPMENT AND PANCHAYAT DEPARTMENT
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RADHAPURAM POST.
TIRUNELVELI DISTRICT.

+1. C.C. to Mr.M.SARAVANAKUMAR, Advocate SR.No.1235

ORDER IN
W.M.P. (MD) No.2791 of 2022
and
W.M.P. (MD) No.545 of 2022
in W.P. (MD) No.674 of 2022
Date :17/02/2022

USK/VR/SAR-I/01.03.2022/6P/6C