



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P (MD)No.7959 of 2019

and

W.M.P (MD)Nos.6288 and 6289 of 2019

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A.Paranjothi

... Writ Petitioner

Vs.

1.The Director of Panchayats,
Office of the Director of Panchayats,
Kuralagam, Chennai - 600 108.

2.The District Collector,
Collector's Office,
Tirunelveli,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records and to quash the impugned order of Demotion cum Transfer passed by the first respondent, dated 15.2.2019 vide its proceeding No.Na.Ka.No.1165/2018-7/A.7 and further direct the first respondent to retain the Petitioner in the present post of Executive Officer (Second Grade), (without detriment to the normal and regular promotions and benefits that may accrue to the Petitioner in the meantime).

For Petitioner	:Mr.S.Ramesh alias Ramiah
For Respondents	:Mr.A.K.Manikkam Special. Govt.Pleader

O R D E R

The order dated 15.02.2019 passed by the 1st respondent Director of Panchayat, transferring the writ petitioner from the post of Executive Officer Grade-II to Junior Assistant, is under challenge in the present writ petition.

2. The petitioner was appointed on compassionate ground on 29.09.1988, as Bill Collector. The petitioner was temporarily posted as Executive Officer Grade-II (Adhoc) in order dated 20.08.2021. However, the fact remains that the services of the petitioner in the post of Junior Assistant is to be regularized.

3. The learned counsel for the petitioner reiterated that the respondents have proceeded on the basis of wrong notion, as TNPSC concurrence or ratification is not at all required, as per the Government Order passed in G.O.Ms.No.100, Personal and



Administrative Reforms(M) Department, dated 01.08.2018. The ratification of TNPSC in respect of the compassionate appointment to the post of Junior Assistant was dispensed with in the Government Order and therefore, for all purposes the petitioner is to be treated as regular employee.

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4. This Court is of the considered opinion that the said argument holds good for the purpose of seeking regularization of services in the post of Junior Assistant. However, the order impugned passed transferring the writ petitioner from the post of Executive Officer Grade-II (Adhoc) to Junior Assistant. The learned counsel for the petitioner contended that it amounts to demotion, as the petitioner was already posted as Executive Officer Grade-II and he is working in the Department for several years and his claim is to be properly placed in the seniority list and promotion is to be granted as Executive Officer Grade-II.

5. An employee appointed on compassionate ground, the services are sought to be regularized, then from the date of regularization his name is to be included in the seniority list and promotions are to be granted by preparing a panel of eligible persons, who all are fit for promotion, in accordance with seniority and by following the procedures contemplated. Promotion *per se* cannot be claimed as a matter of right. However, promotion is a Fundamental Right. Thus, the process of promotion is entirely different, as an administrative decision is required to fill up the posts.

6. With reference to the contentions regarding demotion of the petitioner from the post of Executive Officer Grade-II to Junior Assistant, this Court has to consider the order of appointment of the petitioner, as Executive Officer Grade-II. The said order dated 28.02.2011 is enclosed along with the typed set of papers in the writ petition. The order unambiguously states that the Junior Assistants, who all are posted as Executive Officers Grade-II in the cadre of Junior Assistants on administrative ground and on temporary basis. It is clearly stated that temporary working arrangements are made on administrative grounds. Therefore, no regular promotion was granted to the petitioner from the post of Junior Assistant to Executive Officer Grade-II. On account of certain administrative exigencies certain Junior Assistants were posted as Executive Officers Grade-II in the same cadre of Junior Assistants on temporary working arraignment basis and therefore, such arraignment made to meet out certain administrative exigencies can at no circumstances be claimed as a matter of right.

7. Perusal of the order posting the writ petitioner as Executive Officer Grade-II reveals that it is not a promotion order and it an order of temporary working arraignment on administrative grounds. Under these circumstances, the very contention that the petitioner was promoted to the post of Executive Officer Grade-II



order is incorrect and not supported with any regular order of promotion. Therefore, the petitioner was posted as Executive Officer Grade-II in the cadre of Junior Assistant only. Thus, the order impugned transferring the writ petitioner from Executive Officer Grade-II to Junior Assistant will not amount to demotion, as he was posted as Executive Officer Grade-II on temporary working arrangement basis on administrative ground in the cadre of Junior Assistant. It is as good as posting the Junior Assistant as Executive Officer Grade-II incharge on certain administrative grounds. Though the language adopted in the order is temporary working arraignment on administrative grounds, it is equivalent to posting an employee as incharge officer to meet out certain administrative exigencies. With reference to the regularization of services of the petitioner, the competent authorities have to consider the merits, Government Orders and other relevant factors. In fact, the post of Junior Assistant is falling under the purview of the TNPSC.

8. This being the factum, this Court do not find any infirmity in respect of the order of transfer issued by the first respondent in proceedings No.Na.Ka.No.1165/2018-7/A.7, dated 15.02.2019 and accordingly, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK

To

1.The Director of Panchayats,
Office of the Director of Panchayats,
Kuralagam, Chennai - 600 108.

2.The District Collector,
Collector's Office,
Tirunelveli,
Tirunelveli District.

+1 CC to M/s.S.RAMESH @ RAMIAH, Advocate (SR-9797[F] dated 03/03/2022)

+1 CC to M/s.SPL GP (SR-9690[F] dated 03/03/2022)

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