



W.P.(MD)No.14663 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **08.07.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE G. CHANDRASEKHARAN**

W.P.(MD)No.14663 of 2022

Rajagurunathprabhu

.. Petitioner

Vs

Appellate Authority cum Principal Secretary,

Rural Development and Panchayat Raj Department,

Fort St. George,

Chennai-9.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to dispose the petitioner's appeal petition dated 18.04.2022 within the time stipulated by this Court on par with similar order passed by the same respondent in his Circular No.21295/Pa.A.4/2018-19 dated 28.11.2019 for the Kanyakumari District regarding seniority.

For Petitioner : Mr.RM.Arun Swaminathan

For Respondent : Mr.R.Ragavendran

Government Advocate



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ORDER

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This Writ Petition has been filed to direct the respondent to dispose the petitioner's appeal petition dated 18.04.2022 within the time stipulated by this Court on par with similar order passed by the same respondent in his Circular No.21295/Pa.A.4/2018-19 dated 28.11.2019 for the Kaniyakumari District regarding seniority.

2.Mr.R.Ragavendran, learned Government Advocate takes notice for the respondent. By consent, this writ petition is taken up for final disposal at the admission stage itself.

3.The learned counsel appearing for the petitioner submitted that the petitioner was appointed as Assistant in the Rural Development Department on 18.12.2012 by direct recruitment and his Seniority No. 557(10) in Assistant Seniority Panel and several persons have been appointed after date of his appointment. However, the District Collector, Virudhunagar, has given wrong seniority No.430 in Deputy BDO, Seniority Panel under Tamilnadu Government Servants (Conditions of



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Service Act) 2016. Thereafter, he sent a representation on 14.09.2021 before the District Collector and the same was rejected by the District Collector. On 18.04.2022, the petitioner has filed a statutory appeal before the respondent. Hence, the present petition has been filed.

4.It is submitted by the learned Government Advocate appearing for the respondent that the appeal against the order passed by the District Collector, Virudhunagar District lies only before the Director of Rural Development and Panchayat Raj. The petitioner, without following procedure under Section 42 of Tamil Nadu Government Servant (Conditions of Services) Act, 2016, has straight away filed an appeal before the respondent. In support of his submission, he has produced the order of this Court passed in W.P.(MD).No.14025 of 2021, wherein it was held that the authority, who can consider the appeal is the Director of Rural Development and Panchayat Raj Department and not the Principal Secretary of Rural Development and Panchayat Raj Department. This Court directed the petitioner to prefer an appeal before the Director of Rural Development and Panchayat Raj within a period of two weeks from the date of receipt of copy of that order and dispose the appeal.



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5.The facts in this case is identical to the said case as the petitioner instead of filing appeal before the Director of Rural Development and Panchayat Raj, filed the appeal before the Principal Secretary of Rural Development and Panchayat Raj Department. Therefore, the prayer sought for disposal of the appeal by the respondent within the time stipulated cannot be entertained.

6.In view of the above, this writ petition is dismissed. However, the petitioner is given liberty to file fresh appeal to the Director of Rural Development and Panchayat Raj within a period of two weeks from the date of receipt of a copy of this order and on such appeal being filed, the Director of Rural Development and Panchayat Raj is directed to consider the same without touching upon limitation aspect, since the petitioner has wrongly preferred appeal before the respondent, and pass appropriate orders therein, in accordance with law and on merits, within a period of 12 weeks from the date of filing the appeal. No costs.

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Index: Yes/No
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