



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.04.2022

PRONOUNCED ON : 17.06.2022

WEB COPY

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.13886 of 2016

and

W.M.P. (MD)Nos.10339, 10340 and 10341 of 2016

K.Murali

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director of Rural Development and Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 60 015.

3.The District Collector (Rural Development),
Tiruchirapalli, Trichy. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the third respondent in Na.Ka.Tha.3/5472/2016 dated 25.06.2016 and to quash the same in so far as the petitioner is concerned and consequently direct the respondents to include the name of the petitioner in the panel for the year 2016 based on his seniority in the post of Assistant and consequently promote the petitioner to the post of Deputy Block Development Officer on par with his junior with all consequential and other attendant benefits.

For Petitioner : Mr. F.Deepak

For Respondents : Mr.S.Kameswaran

Government Advocate (Civil side)



ORDER

This Writ Petition is filed to quash the impugned proceedings in Na.Ka.Tha.3/5472/2016 dated 25.06.2016 in so far as the petitioner is concerned and consequently direct the respondents to include the name of the petitioner in the panel for the year 2016 based on his seniority in the post of Assistant and consequently promote the petitioner to the post of Deputy Block Development Officer on par with his junior with all consequential and other attendant benefits.

2. The petitioner was initially appointed as Junior Assistant in Rural Development Department, on compassionate ground on 16.07.2007. The service of the petitioner has been regularized from the date of his initial appointment and further the petitioner passed the departmental test and further completed probation. Thereafter, the petitioner was promoted to the post of Assistant / Rural Welfare Officer Grade-I on 20.09.2013. The petitioner's seniority has been fixed in the post of Assistant in Seniority No.21, as per 2016 Seniority List dated 17.06.2016 in Na.Ka.No.R3/528/2016. The next avenue of promotion is to the post of Deputy Block Development Officer. As per Rules, for promotion to the post of Deputy Block Development Officer, one has to complete the services in the post of Assistant for one year and in the post of Rural Welfare Officer Grade-I (Rural Welfare Officer Grade-I) for one year. Accordingly, on promotion to the post of Assistant and Rural Welfare Officer Grade-I, a person has to complete service for one year in each post, to become eligible for promotion to the post of Deputy Block Development Officer.

3. The Department would post the person working in the post of Junior Assistant and Record Clerk as Assistant / Rural Welfare Officer Grade I, to enable them to get promotion to the post of Deputy Block Development Officer. The service posting will be carried out by the Department by posting the persons working as Assistant / Rural Welfare Officer Grade-I, alternatively for one year. Any delay in posting the individual for service posting by the Department, cannot be attributed against them. The petitioner completed Rural Welfare Officer Grade I, services for one year on 19.09.2014 and the petitioner was relieved on 21.08.2015, as Assistant. When the petitioner completed one year service in the post of Rural Welfare Officer Grade-I, the petitioner submitted representation to the third respondent to be posted as Assistant. However, there was a delay in posting me in the post of Assistant. The third respondent has also recommended the petitioner's name to be posted as Assistant immediately based on the representation. Since the petitioner was relieved from the Rural Welfare Officer, Grade-I, belatedly, the petitioner has not completed one year service in the post of Assistant as on 01.03.2016 which is crucial date for preparation of panel for promotion to the post of Deputy Block Development Officer. In view of the same, the persons who are



juniors to the petitioner but given service posting within time to complete one year service in each post and are included in the panel, over-looking the petitioner's seniority.

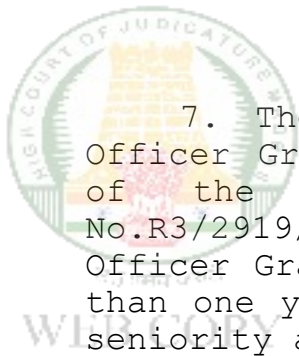
4. The contention of the petitioner is that the petitioner's seniority is No.21, whereas the petitioner's junior by name M.John Paul carrying Seniority No.23, who is included in the panel for the year 2016 as he has completed one year service in the post of Assistant and in the post of Rural Welfare Officer Grade-I. Since, the respondents have not relieved the petitioner from Rural Welfare Officer, Grade-I within the stipulated time, the petitioner has lost his opportunity to be posted as Assistant, thereby he lost his seniority.

5. The claim of the petitioner is that the service qualification prescribed in any post, is not completed within the stipulated time, due to administrative delay, which is on the part of the respondents cannot be put against the individual and thereby declining the level of promotion. Therefore, the petitioner is praying to re-fix his seniority and promotion notionally above his junior and to grant consequential benefits.

6.The respondents have filed a counter stating that the petitioner's service was regularized in the post of Junior Assistant by the Government after 4 ½ years from his date of appointment vide G.O.No.72 Rural Development and Panchayat Raj Department dated 12.01.2012. The petitioner has completed his probation on 15.07.2009 and was declared vide G.O.(IT) No.425, Rural Development and Panchayat Raj Department, dated 22.08.2013. After his declaration of probation, he was promoted to the post of Rural Welfare Officer Grade-I as equivalent to Assistant Cadre on 20.09.2013. In the temporary seniority list published on 2014, the petitioner's seniority has been fixed as seniority No.140. After revision, the petitioner's seniority is revised as 44(A), based on the joining date of Junior Assistant Cadre vide proceeding No. R3/13184/2013, dated 16.06.2014. As per G.O.587, Rural Development and Panchayat Raj Department, dated 12.04.1984 and G.O.No.9, Rural Development and Panchayat Raj Department, dated 25.01.2010, the following conditions should be fulfilled by the Assistant for promotion to the post of Deputy Block Development Officer:

i)Must possess the Minimum General Educational Qualification specified in SSLC to General rules to the Tamil Nadu State and Sub-ordinate service.

ii)Must have passed the Departmental test for officers of Panchayat Development Department and Panchayat Development account test conducted by the TNPSC and must have served as Rural Welfare Officer Grade-I and Assistant or Accountant for a period of not less than one year in each post.



7. The petitioner was promoted and posted to Rural Welfare Officer Grade-1, (Vacant Place) on 25.09.2013 vide the proceedings of the Personal Assistant to Collector in Proceedings No.R3/2919/2012, dated 20.09.2013. For serving as Rural Welfare Officer Grade-I and Assistant / Accountant for a period of not less than one year in each posts every year a batch of employees as per seniority are interchanged to fulfil their service qualification.

8. In Trichy District, 195 Assistant posts were sanctioned. In 162 Junior Assistant posts, 33 Rural Welfare Officer Grade-I posts are sanctioned. (162+33=195). All the 195 employees has to complete both the post for 1 year each i.e., Assistant / Rural Welfare Officer Grade-I to qualify themselves for promotion as Deputy Block Development Officer. In 2014, Rural Welfare Officer Grade-I and Assistant were interchanged vide Trichy District Collector's Rc.R3/5321/2014 dated 12.06.2014. At that time, since the petitioner had not completed his Rural Welfare Officer Grade-I service of one year, he has not been given Assistant Post. The petitioner has been posted as Assistant during the 2015 batch vide R3/7898/2015 dated 31.07.2015. Since, the petitioner has not completed his Rural Welfare Officer Grade-I service of one year during 2014 batch and after completion of his Rural Welfare Officer Grade-I service for one year, his name has been included in 2015 batch and he has been posted as Assistant. He has been relieved on 21.08.2015, from his Rural Welfare Officer Grade-I service vide Tiruverambur Block Development Officer proceedings A1/2090/2015 dated 21.08.2015 and joined duty as Assistant in Assistant Director (Audit) office on 28.08.2016.

9.M.John Paul was appointed as Junior Assistant in Rural Development Department on compassionate ground on 18.09.2007. His service was regularized in the post of Junior Assistant from his date of appointment vide G.O.No.32, Rural Development and Panchayat Raj Department, dated 13.09.2012. The said M.John Paul had been posted as Rural Welfare Officer Grade-I service on 01.08.2015, whereas the petitioner had not completed his Rural Welfare Officer Grade-I service during 2014 batch (3 months shortage). M.John Paul has both Rural Welfare Officer Grade-I and Assistant as on 01.03.2016 and he become eligible for Deputy Block Development Officer panel 2016-2017. Therefore, the petitioner is not entitled to consider the petitioner's name in the panel of 2016-2017. The petitioner was considered in the panel of 2017-2018 and there was promoted as Deputy Block Development Officer.

10.Heard Mr. F.Deepak, the learned counsel for the petitioner and the Mr.S.Kameswaran, the learned Government Advocate (Civil side) for respondents and perused the records.



11. It is an admitted fact that the petitioner was not included in the panel of 2015 since the petitioner has not completed Rural Welfare Officer Grade-I training and he has completed the training in the year 2015 batch. The Rural Welfare Officer Grade-I training to Junior Assistant for the post of Assistant is considered as "service qualification". The list of persons to attend the training to these posts, are sent by the employer based on the available vacancy in posts. This Court in similar cases, has held that if there is a delay in sending the employees for such training, the same shall not be attributed against the employees. In this case, admittedly the petitioner's junior namely John Paul was sent for training in the 2014 batch. Even though, the petitioner is a senior, the petitioner ought to have been sent for the training even prior to the said John Paul. Even according to the respondents, the employees would be sent for training based on their seniority, if that is so then the petitioner, being senior to the said John Paul ought to have been sent earlier. But the petitioner was sent for training subsequently. Since the respondent has not sent the petitioner in the 2014 batch, the same cannot be put against the petitioner and decline the opportunity of promotion. Following, the judgments passed in several judgments, this Court is of the considered opinion that the delay in acquiring the service qualification, is the fault of the respondents and the same cannot be attributed against the petitioner.

12. Therefore, this Court is of the considered view that the delay in sending the petitioner for training, for Rural Welfare Officer Grade-I in the 2014 batch, cannot be put against the petitioner and consequently cannot decline his promotion. Therefore, the respondents are directed to consider the petitioner's name, as if he completed in the year 2014 batch and grant all consequential seniority and promotion and other mandatory benefits, to the petitioner, on par with his junior. The impugned order is hereby, set aside. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

13. Accordingly, these Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

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/06/2022

Sub Assistant Registrar (CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Secretary to Government,
The State of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director of Rural Development and Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 60 015.

3.The District Collector (Rural Development),
Tiruchirapalli, Trichy.

+3 CC to M/s.F. DEEPAK, Advocate (SR-26643[F] dated 20/06/2022)

+1 CC to M/s.SPL.GP (SR-26830[F] dated 20/06/2022)

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kg (CO)

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