



W.P. No.28901 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.28901 of 2013

and

M.P.Nos.1 & 2 of 2013

A.Sekaran

Assistant Project Officer (Retired),
District Rural Development Agency,
Dharmapuri – 676 305.

... Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Rural Development and
Panchayat Raj, Panagal Building,
Saidapet, Chennai – 600 015.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Order of the first respondent issued in Letter No.19087/E1/2013-2 R.D&P.R. Department dated 12.09.2013 and quash the same and consequentially direct the first respondent to promote the petitioner as Joint Director, Rural Development and Panchayat Raj Department on par



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with his Junior Thiru T.Sadayappa Vinayaga Murthy who was promoted as Joint Director on 09.01.2013, with all monetary benefits.

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For Petitioner : Mr.K.S.Viswanathan
Senior Advocate for M/s.T.Hemalatha

For Respondents : Mr.V.Arun
Additional Advocate General-V
assisted by Mr.K.Surendran
Additional Government Pleader.

ORDER

This writ petition has been filed questioning an order passed by the first respondent in Letter No.19087/E1/2013-2 R.D&P.R., refusing promotion to the petitioner to the post of Joint Director, Rural Development and Panchayat Raj on par with his Junior Thiru T.Sadayappa Vinayaga Murthy, who was promoted as Joint Director on 09.01.2013.

2. On an earlier occasion, this writ petition was heard by a learned Single Judge of this Court and the same was allowed by an order dated 10.12.2020, directing the first respondent to consider the candidature of the petitioner for notional promotion to the post of Joint Director, without reference to the adverse confidential report made against the petitioner, on par with his junior and to grant all monetary benefits payable to the petitioner.



However, the said order of the learned Single Judge was appealed against in W.A.No.2856 of 2021 and the same was remanded back for fresh disposal.

The operative portion, of the order passed by the learned Division Bench of this Court in W.A.No.2856 of 2021 reads as under:

“Since the matter pertains to promotion, as the learned Single Judge has not dealt with other aspects, this Court interferes with the order passed by the learned single Judge on the ground that, Adverse Remarks against the Respondent/Writ Petitioner were served on him, as is evident from the Writ Petitioner's letter dated 22.11.2012 to the 2nd Appellant herein. Accordingly, the order of the learned single Judge is interfered with and the matter is remanded to the learned Single Judge for fresh consideration. The learned Single Judge is requested to decide the matter, as expeditiously as possible, as the issue is almost a decade now, by ignoring the Adverse Remarks made against the Respondent/Writ Petitioner and by taking into account as to whether Adverse Remarks were made against the Respondent/Writ Petitioner on the crucial date for preparation of panel for promotion, i.e. On 01.03.2012.”

3. It is contented by Mr.K.S.Viswanathan, the learned Senior



Counsel appearing for the petitioner that the only ground on which the petitioner was denied promotion is the adverse remarks reported by the reporting Officer through his report dated 17.10.2012 and the said Adverse Remarks were made by the said Reporting Officer after he retired from his office and having personal grudge against the petitioner, only with the view to deprive the petitioner his legitimate promotion on par with his junior. It is also specifically contented that the said Reporting Officer who made Adverse Remarks against the petitioner, retired from service on 31.01.2012 and without any right or the authority, he has submitted the report on 17.10.2012 which is the basis for denying promotion, to the petitioner.

4. As against the said contention, the learned Additional Advocate General submitted that the said adverse remarks was duly communicated to the petitioner on 16.11.2012. But, insofar as the contention that the report of adverse remarks was submitted after retirement of the Reporting Officer is concerned, the same was not disputed.

5. In the light of the above, any adverse remarks or the confidential report that was submitted by Reporting Officer, after demitting the office, has



no legal validity and the same is illegal. In the circumstances, it is clear that the petitioner was denied promotion to the post of Joint Director, only basing upon the adverse remarks submitted by the Reporting Officer through his letter dated 17.12.2012 after he ceased to hold such office, the submission of such adverse remarks or confidential report has no legal sanctity. The action of respondents in placing reliance of said adverse remarks submitted by an Officer out of office, is bound to be declared as illegal and arbitrary.

6. In the circumstances, the action of the respondents in denying the promotion to the petitioner basing upon the adverse report submitted by an Officer, who has no authority, is declared as illegal and arbitrary and it is further declared that the petitioner is entitled for promotion to the post of Joint Director, Rural Development and Panchayat Raj, on par with his junior with effect from 09.01.2013 and the respondents are directed to promote the petitioner notionally with effect from 09.01.2013 and extend all the benefits that would flow consequent upon such promotion as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this order. Accordingly, this writ petition is allowed. The miscellaneous applications, if any, shall stand closed.



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Index : Yes/No
Speaking Order : Yes/No
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To:

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MUMMINENI SUDHEER KUMAR,J.

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