



W.P.No.11794 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.11794 of 2021

C.Krishnamoorthy

... Petitioner

Vs.

- 1.Government of Tamil Nadu,
Represented by Principal Secretary to Government,
Rural Development & Panchayat Raj Development,
Secretariat, Chennai 600 009.
- 2.The Director of Rural Development & Panchayat Raj,
Chennai-600 015
- 3.The District Collector,
Kanchipuram District,
Kanchipuram.
- 4.The Principal Accountant General (A&E),
Tamilnadu,
Chennai-600 018

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing respondents 1 to 3 to (1) include the name of the petitioner in the appropriate place in the panel for



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promotion to the post of Assistant Director for the year 2014-2015 and to promote him on par with his immediate Junior with all consequential benefits. (2) issued formal orders permitting the petitioner to peacefully retire from service in the promotional post of Assistant Director on 30.09.2016 A.N. and to sanction and disburse the retirement and pensionary benefits to the petitioner in the said post and grant all benefits with interest for all the delayed payment.

For Petitioner : Mr.M.Ravi

For Respondents 1 to 3 : M/s.C.Meera Arumugam,
Additional Government Pleader

For Respondent 4 : M/s.J.Sree Vidya
Senior counsel

ORDER

This writ petition has been filed seeking direction to the respondents 1 to 3 to include the name of the petitioner in the appropriate place in the panel for promotion to the post of Assistant Director for the year 2014-2015 and to promote him on par with his immediate Junior with all consequential benefits and to issue formal orders permitting the petitioner to peacefully retire from service in the promotional post of Assistant Director on 30.09.2016 A.N. And to sanction and disburse the retirement and pensionary benefits to the



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petitioner in the said post and grant all benefits with interest for all the delayed payment.

2. The case of the petitioner is that the petitioner had joined service as Junior Assistant in the Panchayat Development Department and raised to the position of Block Development Officer on 31.03.2010. In respect of alleged irregularities on the part of the petitioner, he was issued with a charge memo dated 25.03.2015 in Na.Ka.No.5086/2015/DPC.1.2/ by the second respondent under Rule 17(b) of the Tamil Nadu Civil Services (D&A) Rules. Due to which, he was stagnated in the said post, even though his juniors had empanelled in 2014-2015 panel and promoted as Assistant Director.

2.2. This being so, in a similar allegation, disciplinary proceedings was initiated against the officers viz., M.Natarajan erstwhile B.D.O. (Village Panchayat) and Tmt.J.Santi (B.D.O). However, the proceedings have been dropped prior to their retirement. Moreover, in the case of M.Natarajan, he was given promotion as Assistant Director, Rural Development Department. However, the respondents have not considered the case of the petitioner.



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Subsequently, the petitioner has attained the age of superannuation in the year 2016 and the third respondent issued a proceeding dated 30.09.2016, permitting the petitioner to retire from service with a condition that the disciplinary proceedings pending against him shall be continued under Rule 9 of Tamil Nadu Pension Rules, 1978.

2.3. After 7 years from the period of alleged occurrence; 3 years from the date of initiation of disciplinary proceedings/deferment of his empanelment and promotion as Assistant Director and 2 years from the date of his retirement, the second respondent issued a proceeding in Na.Ka.No.50866/2015/TPC 3-1 dated 27.10.2018 stating that the disciplinary proceedings initiated against the petitioner were ordered to be dropped. Though the disciplinary proceedings have been dropped against the petitioner, the respondents have not taken any action to grant retirement benefits to the petitioner. Despite several representations were made, no order was passed in regard to granting of retirement benefits to the petitioner. Hence, the petitioner has come forward with the present writ petition.



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3. Learned counsel for the petitioner submitted that the respondents ought to have considered that if Rule 9(a) of the Tamilnadu Civil Servants (Disciplinary Appeal Rules) had not been violated, Joint enquiry would have been conducted and in any event as a co delinquent the proceedings against the petitioner would also been dropped prior to the date of his retirement as done in the case of Mr.Natarjan by the 1st respondent and J.Santi by the 2nd respondent herein.

4. Learned counsel for the petitioner further submitted that the while subjecting the petitioner to major penalty proceedings on the verge of his promotion as Assistant Director itself was unwarranted and prolonging the same beyond the date of retirement, even while the proceedings was dropped against the officers concerned with the very same alleged occurrence was unjustified and it is against the principle of natural justice. Moreover, the proceedings were prolonged only against the petitioner even as on 30.09.2016 i.e., the date of the retirement of the petitioner and after attaining the age of superannuation also he was permitted to retire on conditional order.



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5. Learned counsel for the petitioner contended that the untold grievance suffered by the petitioner on account of the aforesaid disciplinary proceedings have not been redressed even after the dropping of the same and as such the petitioner and the members of his family have been exposed to serious prejudice on account of the following counts:

(i) Having been subjected to unwarranted and unjustified initiation of major penalty proceedings.

(ii) deferment of the petitioner empanelment and promotion as Assistant Director for the panel year 2014-15, even while his juniors were promoted.

(iii) deferment of petitioner's empanelment and promotion as Assistant Director for the panel year 2015-16, even while his juniors were promoted.

(iv) deferment of petitioner's empanelment and promotion as Assistant Director for the panel year 2016-17, even while his juniors were promoted.

(v) Non conclusion of disciplinary proceedings and prolonging the same only against the petitioner, even after dropping of the proceedings in



case of the other officers.

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(vi) Conditional order of retirement without prejudice to the pending disciplinary proceedings on 30.09.2016, exposing the petitioner to loss of peace and reputation.

(vii) Non disbursement of retirement and pensionary benefits.

(viii) Non grant of consequential benefits even after 3 years from the date of dropping of the disciplinary proceedings and till date.

6. Learned counsel for the petitioner further contended that the sole impediment for deferment of petitioner's promotion was the aforesaid disciplinary proceedings and the same was dropped. Hence, the 1st respondent ought to have suo moto initiated action for empanelment and promotion as Assistant Director on par with immediate juniors with all consequential benefits within a period of 15 days from the date of dropping of proceedings in accordance with section 7 of the Tamil Nadu Government Servants (Conditions of Services) Act 2016 r/w the instructions contained in rule 19 under Para 2 of Part A in Schedule XI to the aforesaid Act.



Consequently, the respondents ought to have retired the petitioner from services as on 30.09.2016 A.N. in the promoted post of Assistant Director and disbursed all the retirement and pensionary immediately.

7. Learned Special Government Pleader appearing for the respondents 1 to 3 has filed a counter affidavit dated 17.07.2021. For better appreciation, the relevant paragraphs are extracted hereunder:

“7. Even before the issuance of Final Orders by the Director of Rural Development and Panchayat Raj, Chennai on 27.10.2018, Vigilance and Anti Corruption Department vide their letter dated 25.07.2017 has requested the Assistant Director of Panchayat, Kancheepuram to furnish the Service particulars of the petitioner or investigation purpose. It has also been stated that a Preliminary Enquiry has been registered against him.

9. While the petitioner C.Krishnamurthy was working as Commissioner at Kattankolathur Panchayat Union, he has accorded planning permission to M.M.Builders, Chitlapakkam to construct a building in Survey No.22/5A1 and 22/5A2, Plot No.B6 of Thiruvanjery Panchayat of St.Thomas Mount Panchayat Union. The Commissioner of Kattankolathur Panchayat Union is not authorized to accord Planning Permission for the area of St.Thomas Mount Panchayat Union and the issue was under investigation of the Vigilance and Anti-



Corruption Department.”

WEB COPY 8. Learned Additional Government Pleader appearing for the respondents 1 to 3 submitted a proceedings of the District Collector Kancheepuram vide R.No:4505/2016/PA1, dated 24.08.2023. For better appreciation, the relevant portion of the proceedings is extracted hereunder:

“Further, Director of Rural Development and Panchaya Raj Department has requested to drop further action on the above mentioned allegations against A.O.1 Thiru.C.Krishnamoorthy, formerly Commissioner/Block Development Officer, Kattankolathur Panchayat Union (Retired on 30.09.2016) as per the instructions of the Government.

Accordingly, further action on the above mentioned allegation against the accused officer (A.O.1) Thiru.C.Krishnamoorthy, formerly Commissioner/Block Development Officer, Kattankolathur Panchayat Union (Retired on 30.09.2016) as per the instructions of the Government.”

9. Heard the learned counsel on either side and perused the materials available on record.

10. In the instant case, the disciplinary proceedings were initiated against the petitioner and charge memo dated 25.03.2015 was served to the



petitioner and subsequently, the petitioner was superannuated on 31.09.2016 with a condition and thereafter, the said disciplinary proceedings were dropped by the respondents on 27.10.2018. Though the disciplinary proceedings were dropped by the respondents, the benefits and the promotion was not given to the petitioner. Hence, the writ petition.

11. Considering the fact that as seven years have lapsed from the date of alleged occurrence, the respondents cannot proceed against the petitioner in regard to disbursement of retirement benefits, the petitioner is entitled for the relief sought in the present writ petition and he is also entitled for the interest for the belated payment of the benefits as per the Rules and Regulations in force.

12. In view of the above factual matrix of the case, this Court directs the respondents 1 to 3 to include the name of the petitioner in the appropriate place in the panel for promotion to the post of Assistant Director for the year 2014-2015 and to promote him on par with his immediate junior with all



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consequential benefits and to issue formal orders permitting the petitioner to peacefully retire from service in the promotional post of Assistant Director on 30.09.2016 A.N. and to sanction and disburse the retirement and pensionary benefits to the petitioner in the said post and grant all benefits. The respondents 1 to 3 are further directed to pay 6% interest for all the delayed payment from the date of retirement i.e., on 30.09.2016 to till the date of payment, within a period of three (3) months from the date of receipt of a copy of this order.

13. This writ petition stands allowed with the aforesaid observation and directions. No costs.

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Speaking Order : Yes/No

Neutral Citation : Yes/No

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