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W.P.No.15627 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.15627 of 2020
and WMP.No.19478 of 2020

A.Muthuganapathy

... Petitioner

-Vs-

1. State of Tamil Nadu rep by its Principal Secretary to Government,
Rural Development and Panchayat raj Department
Fort St.George, Chennai – 9.

2. Director,
Commissionerate of Rural Development and Panchayat Raj,
Panagal Building, Chennai – 15.

3. District Collector
Kancheepuram District,
Kancheepuram.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction in the nature of a Writ directing the 3rd respondent herein to fix the seniority of the petitioner herein in the post of Assistant as per the instructions issued in Government Lr.No.21072/7/2001-3 dated 31.01.2002 and consequently promote the petitioner herein as Deputy Block Development Officer in the next available vacancy by including the name of



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the petitioner herein in the panel for the year 2020-21 without insisting one year service qualification in the post of Assistant and extend all monetary benefits in the post of Assistant and Deputy Block Development Officer notionally on par with his junior S.Ambika Devi and pass such further or other orders as this Court deem fit.

For Petitioner : Mr.V.R.Rajasekaran

For Respondents : Mr.V.Ramesh, Govt Advocate for R1 to R3.

ORDER

Heard both sides and perused the records.

2. The learned counsel for the petitioner submit that the petitioner was appointed as Junior Assistant in Panchayat Development Unit of Kancheepurm on compassionate ground and joined service on 02.03.2009 and his service was regularised w.e.f. 02.03.2009 and issued Government Orders on 14.01.2016 and declared probation only on 05.05.2017. Due to delay in declaring the probation, the name of the petitioner was not considered for promotion on 30.11.2012 along with his junior S.Ambika Devi. In the interregnum several juniors in the post of Junior Assistant got promoted as Assistant and then as Deputy Block Development Officer on 03.08.2015, by overlooking the petitioner. In this regard, the petitioner has made a representation on 27.09.2019 claiming notional promotion to the post



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of Assistant and further promotion as Deputy Block Development Officer on par with junior S.Ambika Devi. The said representation is kept pending, thereby the petitioner had filed WP.No.30810 for 2019, this Court by an order dated 31.10.2019, directed the respondents therein to consider the claim for notional promotion to the post of Assistant on par with juniors with monetary benefits. Thereafter, the 3rd respondent had issued orders on 03.09.2020 promoting the petitioner to the post of Assistant / Rural Welfare Officer Grade – I, and joined the post on 09.09.2020. Once again, the petitioner had submitted his representation to the 3rd respondent on 10.09.2020, but the same has not yielded any desired result. The 3rd respondent neither considered the petitioner's representation dated 10.09.2020 seeking regular promotion as Deputy Block Development Officer by including his name in the panel for the year 2020-21 nor the claim for notional promotion at the first instance as Assistant and then as Deputy Block Development Officer on par with his junior. Hence, the petitioner is constrained to file this writ petition.

3. The third respondent filed counter on behalf of the respondents.



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4. In the counter affidavit it is averred that the petitioner joined duty as Junior Assistant on 02.03.2009 under compassionate ground, and submitted fullfledged records only during October 2013. Thereafter, the petitioner was sent to Bhavani Sagar to take Basic Civil Service Training for the period from 05.02.2016 to 20.03.2016. The petitioner completed his departmental test on 23.12.2011 and he has been declared approved probationer on 24.12.2011. Whereas, the Junior S.Ambika Devi has been declared as approved probationer on 27.05.2011 and she was promoted as Assistant on 05.12.2012.

5. It is further contended that the orders were issued by the District Collector, Kancheepuram in his Proc.RC.No.10169/2016/PA3, dated 29.11.2017 as “stoppage of increment for a period of three months without cumulative effect” as a punishment for the charges levelled against him. The petitioner preferred an appeal before the Rural Development, Chennai and the same was also rejected on 22.07.2019 vide Proc.RC.No.17695/2018/DPC 3.1. Thereby, the petitioner became eligible for promotion as Assistant only on 01.03.2020 and thereafter, a panel proposal “fit for promotion” as Assistant was prepared and the petitioner was promoted as Assistant on 09.09.2020. It is also submitted that a proposal has been sent to the



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Government by the Director of Rural Development, Chennai in RC.No.13990/2019/PA3 dated 14.12.2020 to effect notional promotion as Assistant and as Deputy Block Development Officer on par with the junior S.Ambika Devi.

6. In the status report filed by the respondents on 13.06.2023, it is averred that the issue for consideration of the notional promotion to the petitioner is under examination under the Government level and various advisory departments like Human Resources Department, Law Department and Finance Department are to be consulted and it may require 12 weeks time to consider the proposal.

7. The learned counsel for the petitioner contends that already for the last three years the issue is pending for consideration at the Government level.

8. Considering the contents of the status report filed by the respondent it appears that the first part of the relief sought for by the petitioner for promotion as Deputy Block Development Officer is already ordered on



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10.06.2022 and the only issue to be considered at Government level is with regard to notional promotion.

9. In the considered opinion of this Court, it is appropriate to dispose of the writ petition directing the respondents to consider to pass orders for notional promotion of the petitioner in accordance with law to meet the interest of justice.

10. Accordingly, the writ petition is disposed of with the following direction : -

(i) The first respondent is directed to consider and pass orders for notional promotion to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

11. No costs.

12. Consequently, connected miscellaneous petitions if any, are closed.

15.06.2023

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Index: Yes/No

Speaking order/Non Speaking order

Neutral Citation: Yes/No



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BATTU DEVANAND, J.

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