



W.P.Nos.21507 & 21730 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	28.11.2022
PRONOUNCED ON	:	04.01.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.Nos.21507 & 21730 of 2014
and M.P.No.1 of 2014

W.P.No.21507 of 2014:

V.Pichandi
Assistant,
Kalasapakkam Panchayat Union,
Tiruvannamalai District.

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St.George, Chennai 600 009

2. The Director of Rural Development & Panchayat Raj
Panagal Building, Saidapet,
Chennai 600 015

3. The District Collector (PD Section),
Thiruvannamalai District,
Thiruvannamalai.

..Respondents



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W.P.No.21730 of 2014:

K.Elangovan, Assistant,
Kilpennathur Panchayat Union,
Tiruvannamalai District.

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St.George, Chennai 600 009

2. The Director of Rural Development & Panchayat Raj
Panagal Building, Saidapet,
Chennai 600 015

3. The District Collector (PD Section),
Tiruvannamalai District,
Tiruvannamalai.

..Respondents

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to letter bearing (2D) No.2 dated 07.01.2011 of the first respondent and quash the same insofar as it relates to reckoning the seniority of the petitioner in the cadre of Junior Assistant from the date of his appointment viz. 16.02.2011 and further direct the respondents to include the petitioners' name in the 2002-2003 list of Junior Assistant and grant consequential benefits notionally



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viz.retrospective promotion, refixation of seniority in the cadre of Junior Assistant and Assistant.

In both cases:

For Petitioners : Mr.J.Selvarajan

For RR 1 to 3 : Mr.V.Nanmaran,
Additional Government Pleader

COMMON ORDER

The above writ petitions are filed challenging the impugned order of the first respondent, dated 07.01.2011 and seek to quash the same and to direct the respondents to include the petitioners' name in the 2002-2003 list of Junior Assistants and grant consequential benefits notionally viz., retrospective promotion, re-fixation of seniority in the cadre of Junior Assistant and Assistant to the petitioners.

2. Since the issue involved in both the writ petitions are one and the same, they are disposed of by this common order.

3. Presently, the petitioner in W.P.No.21507 of 2014 is working as



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an Assistant at Kalasapakkam Panchayat Union, Tiruvannamalai District and the petitioner in W.P.No.21730 of 2014 is working as an Accountant in the cadre of Assistant at Kilpennathur Panchayat Union, Tiruvannamalai District. Both the petitioners were initially appointed as Record Clerk with effect from 23.01.1995 and 17.05.1993 respectively at West Arni Block and at Kilpennathur Block on compassionate ground.

4. The learned counsel for the petitioners would submit that the petitioners became eligible for consideration for promotion to the post of Junior Assistant from the post of Record Clerk during the year 2002-2003. As per G.O.Ms.No.240, Rural Development (ES) Department dated 07.09.2000, 10% reservation of vacancies in the post of Junior Assistant to be appointed from the feeder category of record clerk/office assistant. However, following G.O.Ms.No.963, Rural Development Department, dated 28.11.1990, the respondents after getting concurrence from the Tamil Nadu Public Service Commission, forwarded the panel for promotion to the Tamil Nadu Public Service Commission for concurrence on 11.09.2009. Thereafter, the 1st Respondent, vide proceedings dated



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07.01.2011 passed orders rendering approval to the promotion of the petitioners to the post of Junior Assistant on 15.02.2011. Thereafter, the petitioners were posted as Junior Assistant at Polur Block and Kilpennatur Block respectively on 16.02.2011. Subsequently, the petitioners got promoted to the post of Assistant on 22.07.2013.

5. It is the further contention of the learned counsel for the petitioners that the seniority in the post of Junior Assistant has to be reckoned from the year 2003 onwards but on the contrary, the respondents have reckoned the seniority of the petitioners only from the year 2011. The delay caused in getting concurrence from the Tamil Nadu Public Service Commission by the respondents resulted in the petitioner's losing their seniority for more than 10 years.

6. Per contra, the learned Additional Government Pleader for respondents 1 to 3 would submit that strictly on the basis of seniority, promotion to the post of Junior Assistant is drawn in the panel of eligible candidates. Such panels were regularly drawn up to the year 2000-2001



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and the eligible candidates were promoted as Junior Assistants as per their seniority in the cadre of Record Clerks. While so, the Government reconstituted the staff pattern in Rural Development Department, vide G.O.(Ms) No.112, Rural Development Department, dated 05.05.2000 and ordered that 88 posts in the cadre of Junior Assistants are supernumerary posts and no promotion / recruitment for the posts in Junior Assistant cadre should be made until all the supernumerary posts are exhausted.

7. It is the further submission of the learned Additional Government Pleader that panel for promotion for the year 2002-2003 was drawn and the petitioners became eligible for promotion. But in the mean time, the Government banned recruitments for the posts of Junior Assistants. Therefore, it was not possible to draw panel for promotion from the year 2001 onwards. It is for this reason, the petitioners were not promoted in the year 2002. Subsequently, the Government lifted the ban order for recruitment of Junior Assistant cadre employees vide G.O(MS) No.14, Personnel and Administrative Reforms Department, dated 07.02.2006. The 88 numbers of supernumerary posts were exhausted only during the



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year 2002 and thereafter, panel proposal was forwarded to TNPSC.

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8. Heard both sides and perused the records carefully.

9. There is no dispute that the Government reconstituted the staff pattern in Rural Development Department, vide G.O.(Ms)No.112 Rural Development Department dated 05.05.2000 and ordered that 88 posts in the cadre of Junior Assistants are supernumerary posts and no promotion/recruitment for the posts in Junior Assistant cadre should be made until all the supernumerary posts are exhausted. The 88 supernumerary posts were exhausted in the year 2002. Therefore, the panel was drawn for the year 2002-2003 wherein, the petitioners names found place which clear shows that the petitioners were eligible for promotion to the post of Junior Assistant, but only due to the ban being in existence as on 2002-2003, they were not promoted.

10. Admittedly, the Ban was lifted in the year 2006 and therefore, the petitioner's promotion ought to have been considered atleast from the



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year 2006 itself. However, there is inordinate delay on the part of the respondents in forwarding the list for getting concurrence from the Tamil Nadu Public Service Commission.

11. Since the Government has lifted the ban in the year 2006 and the petitioners were eligible for the promotion panel even in the year 2002-2003, the petitioners would, undoubtedly, have a right to be considered for promotion to the post of Junior Assistant vacancies that would arise immediately after lifting of ban by the Government. The matter must be looked into as against 10% reservation on the basis of seniority and the petitioner's seniority should have been fixed, based on the G.Os and Regulations.

12. But it is the case of the respondents that necessary proposal for approval of panel was sent to the Tamil Nadu Public Service Commission vide Letter No.2872/CD-B2/2010 dated 27.12.2010 and thereafter, TNPSC granted concurrence. In the considered opinion of this court, the said administrative delay cannot be put against the petitioners.



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13. The petitioners are eligible to be considered for promotion from the date of lifting of ban i.e. 2006 and they are entitled to add their service as Junior Assistant in respect of the vacancies that arose immediately after lifting of the ban and that has to be filled by promotion. As per the Regulations, the petitioners are entitled to be considered for promotion and seniority from the date of lifting of the ban in the year 2006.

14. There can be no doubt that only due to administrative delay on the part of the respondents in getting the concurrence from the TNPSC, the petitioner's promotion to the post of Junior Assistant is delayed and posted as Junior Assistant on 15.02.2011, who were originally eligible for promotion in the year 2002-2003 panel. Consequently, their further promotions also got delayed and their consequential benefits are affected.

15. In view of the above referred to circumstances, the promotion and consequential benefits need to be notionally taken in the year 2006 instead of 15.02.2011. Accordingly, the respondents are directed to take



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the notional year of promotion of the petitioners in the post of Junior Assistant as 2006 on which date the ban was lifted and refix their seniority without monetary benefits and grant consequential benefits. The said exercise shall be carried out by the respondents within a period of three months from the date of receipt of a copy of this order.

16. The Writ Petitions are partly allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

04.01.2023

Index: Yes/No

Speaking/Non-speaking order

sts/nvsri

To:

1. The Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai 600 009
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