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W.P.No.24817 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.24817 of 2023

R.Sivakami

... Petitioner

Versus

1.The Government of Tamil Nadu,
Rep by its Secretary,
Rural Development Department,
Fort St.George,
Madras.

2.The District Collector,
(Rural Development and Panchayat Raj)
combined District Collector's office,
Villupuram,
Villupuram District – 605 602.

3.The Block Development Officer,
Olakkur Panchayat Union @ Saram,
Tindivanam Taluk,
Villupuram District 604 305.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, any other writ, order or direction in the nature of writ of mandamus directing the respondents to dispose the petitioner's representation dated 08.05.2023 and grant such other relief may deem fit and proper under the circumstances of the case.

For Petitioner : Mr.S.Jaganathan
For Respondents : Mr.E.Veda Bagath Singh,
Special Government Pleader



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ORDER

This Writ Petition has been filed to direct the respondents to dispose of the petitioner's representation, dated 08.05.2023.

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2.The brief facts of the case is that the petitioner's husband has joined the office of the 2nd respondent as Junior Assistant on 20.01.1967 and he retired from service as Deputy Development Officer on 31.03.2008 after attaining superannuation. During his service, the petitioner's husband was not given further promotion due to the pendency of the charge memo issued on 04.08.1991 for unauthorized absent from 14.05.1990 to 30.06.1991. The said charge memo was set aside by the Tamil Nadu Administrative Tribunal in O.A.No.563 of 1994 on 24.08.2001 and thereafter, another charge memo was framed by the 2nd respondent on 08.02.2002 for the same allegations. After conducting a detailed enquiry, the 2nd respondent dropped the second charge in his proceedings in No.14243/2000/PA3, dated 09.04.2003. Since the charges were dropped against the petitioner only on 09.04.2003, the petitioner was unable to get promotion as Extension Officer, Deputy Block Development Officer and Block Development Officer with effect from the date on which one B.Chandra Babu got his promotion to the said posts with all monetary and other benefits. In this regard, the petitioner has given a



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representation to the 2nd respondent on 20.05.2005, however no orders have been passed. Therefore, the petitioner has filed a Writ Petition before this Court in W.P.No.40895 of 2005 seeking a direction to the 2nd respondent to promote the petitioner as Extension Officer, Deputy Block Development Officer and the Block Development Officer with effect from the date on which one B.Chandra Babu got promotion with all monetary and other attendant benefits as the charge framed against the petitioner was dropped. This Court, by order, dated 22.03.2006 has given positive direction directing the 2nd respondent herein to give promotion to the petitioner to the respective categories. On 05.06.2006, the 2nd respondent has passed on order stating that as per G.O.Ms.No.587 (Rural Development and Local Administration), dated 12.04.1984, the petitioner should have completed one year of service in each category and therefore, he is not entitled to further promotion retrospectively. As against the same, the petitioner has filed a Writ Petition in W.P.No.26360 of 2007 and this Court by order, dated 25.02.2008 has given direction to the respondents therein to consider the question of relaxation of the Rules requiring one year service and pass appropriate orders. Despite such direction, the 2nd respondent rejected the claim of the petitioner *vide* proceedings in Na.Ka.No.10733/2007/PaAa4,



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dated 25.03.2008 stating that there is no eligibility of service to grant promotion to the petitioner. After lapse of nine years, again the petitioner's husband has given a representation, dated 27.09.2017 to the 2nd respondent for retrospective promotion, however, the same has not been considered. Thereafter, the petitioner's husband died in the year 2022 and now, the petitioner has given a representation to disburse all monetary benefits pertaining to it, however, the same has not been considered. Hence, the present Writ Petition has been filed.

3.The contention of the petitioner is that the petitioner's husband has given a representation, dated 27.09.2017 to the 2nd respondent for retrospective promotion, but the same has not been considered. Whereas the petitioner's husband died on 15.09.2022 and therefore, the petitioner, who is his wife, has given representation, dated 08.05.2023 to the 2nd respondent to disburse all monetary benefits.

4.It is relevant to note that in the earlier Writ Petition filed by the petitioner's husband in W.P.No.26360 of 2007, this Court, by order, dated 25.02.2008 has held as follows:-



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“5. Therefore, it is clear that the third respondent has taken a compassionate view of his absence based on the disability of his child. In these circumstances and also considering the fact that the petitioner is going to attain superannuation on 31.03.2008, the respondents shall treat this writ petition itself as representation of the petitioner and shall consider the question of relaxation of the Rules requiring one year service and pass appropriate orders within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected MP is closed.”

Pursuant to the above order, the request of the petitioner's husband for retrospective promotion has been rejected by the 2nd respondent *vide* proceedings, dated 25.03.2008 in Na.Ka.No.10733/2007/PaAa4, but the same has not been challenged by the petitioner's husband. However, the contention of the petitioner is that the representation of her husband, dated 27.09.2017 has not been considered, therefore, she has given another representation, dated 05.08.2023 after the death of her husband.

5.This Court is unable to countenance the submissions of the



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learned counsel appearing for the petitioner for the simple reason that to substantiate the representation has been sent by the petitioner's husband in the year 2017, no acknowledgement whatsoever is available except the copy of the representation. Be that as it may, the very retrospective promotion sought for by the petitioner's husband has been rejected in the year 2008 itself by the 2nd respondent and the same has not been challenged by the petitioner's husband. Such being the position, merely giving direction to consider the representation will not serve any purpose, in fact, the petitioner is now trying to create a new cause of action by giving a fresh representation. Therefore, this Court is not inclined to give any such direction as sought for by the petitioner.

6.Accordingly, this Writ Petition is dismissed. No costs.

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Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

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To



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