



W.A.Nos. 1640 and 1641 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 22.02.2023	Delivered on 01.03.2023
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CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

Writ Appeal Nos.1640 and 1641 of 2017
and
CMP Nos.21335 and 21336 of 2017

1.The State of Tamil Nadu
represented by its Secretary,
Rural Development and Panchayat Raj Department,
Fort St. George, Chennai – 600 009.

2.The District Collector,
Dharmapuri District.

..Appellants/ Respondents
in both the Writ Appeals

Vs.

K.Socrates

.. Respondent/ Petitioner
in W.P.No.1640 of 2017

B.Sankar

.. Respondent/ Petitioner
in W.P.No.1641 of 2017

Prayer in both the Writ Appeals: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the common order dated 16.06.2017 made in



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W.P.Nos.5447 and 5448 of 2017.

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For Appellants : Mr.S.Silambanan,
Additional Advocate General
Assisted by
Mr.L.S.M.Hasan Fizal,
Additional Government Pleader
in both the Writ Appeals

For Respondent : Mr. P.Nethaji
Assisted by
Ms.A.Pramila
in both the Writ Appeals

COMMON JUDGMENT

*(Judgment of the Court was delivered by
K.GOVINDARAJAN THILAKAVADI, J.)*

Challenge in these Intra Court Appeals is to the common order of the Writ Court made in WP Nos. 5447 and 5448 of 2017 dated 16.06.2017, in and by which, the Writ Court had allowed the Writ Petitions filed by the respondents thereby issuing a Mandamus directing the respondents to include the name of the petitioners in the Writ Petitions in the seniority list for promotion as Deputy Block Development Officers without insisting upon one year experience in the post of Rural Welfare Officer, Grade I and



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grant promotion with effect from 01.03.2016.

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2. The respondents herein approached the Writ Court with a grievance that their being unable to complete one year term as Rural Welfare Officer, Grade I was not because of their fault and it was because of the delay caused by the appellants herein in regularising their services and sending them for Bhavanisagar Training. Both the respondents were appointed as Junior Assistants on compassionate grounds on 16.02.2007. However, their services were regularised only on 31.12.2012 (B.Sankar) and 18.12.2012 (K.Socrates), of course with retrospective effect from the date of their initial appointment viz. 16.02.2007. They were sent for Bhavanisagar Training soon after the regularisation of their services and were promoted as an Assistants on 19.07.2014 (B.Sankar) and 22.07.2014 (K.Socrates).

3. It must be stated here that the promotion was preponed to 01.03.2011 by proceedings of the District Collector dated 02.06.2016. There were further promoted as Rural Welfare Officer, Grade I on 21.12.2015 (B.Sankar) and 11.12.2015 (K.Socrates). While drawing the panel for the post of Deputy Block Development Officers on 01.03.2016,



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the names of the respondents herein were not included in the said panel since they had not completed one year in the post of Rural Welfare Officer, Grade I. It is the grievance of the respondents that it is because of the initial delay in regularisation of their services, they were deprived of an opportunity to serve as Rural Welfare Officers from an earlier date which had consequently deprived them of the benefit of promotion as Deputy Block Development Officers.

4. The Writ Petition was resisted by the appellants contending that the qualification for promotion as Deputy Block Development Officers requires that the incumbent should have served as a Rural Welfare Officer, Grade I for at least a year. If they have not completed such service for one year as Rural Welfare Officer, Grade I, they are not entitled to promotion as Deputy Block Development officer. Before the Writ Court it was further contended that the petitioners could not be promoted as Assistants from the post of Junior Assistants since they had not undergone the Bhavanisagar Training, which is a Mandatory requirement. The Writ Court took note of several judgments of this Court and concluded that the delay in sending a person to Bhavanisagar Training should not have the effect of delaying the



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promotion since sending an employee to Bhavanisagar Training is not absolutely in his discretion. Similarly, the Writ Court also found that possession of service qualification cannot be equated to a qualification prescribing a pass in the Departmental Test.

5. Relying upon the judgment of this Court in WA No.391 of 2012 dated 28.10.2014 *in The District Collector, Thoothukudi District and another vs. S.Sasisivanandam*, reported in (2012) 1 MLJ 634, the Writ Court held that a short fall in the required service for a particular period cannot be projected as a disqualification for promotion. On the above said conclusion, the Writ Court allowed the Writ Petitions as prayed for. Aggrieved, the Government is on Appeal.

6. We have heard Mr.S.Silambanan, learned Additional Advocate General assisted by Mr.L.S.M.Hasan Fizal, Additional Government Pleader appearing for the appellants in both the Appeals and Mr.P.Nethaji, learned Counsel assisted by Ms.A.Pramila, appearing for the respondent in each of the Appeals



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7. Mr.S.Silambanan, learned Additional Advocate General appearing for the appellants would submit that there was no delay in sending the respondents for Bhavanisagar Training. Conceding that there was some delay in regularisation of the services of the respondents, the learned Additional Advocate General would relate it to the appointment of the respondents on compassionate grounds. It is therefore, the contention of the learned Additional Advocate General that the Authorities were not responsible for the delay in sending the respondents to Bhavanisagar Training or for their being unable to complete one year service as Rural Welfare Officer, Grade I.

8. Contending contra, Mr.P.Nethaji, learned counsel appearing for the respondents would also rely upon the judgment of the Division Bench of this Court in ***G.Sonaimuthu v. The Government of Tamil Nadu***, made in WA (MD) No.1006 of 2016, wherein the Division Bench relying upon the judgment in ***The District Collector, Thoothukudi District and another vs. S.Sasisivanandam***, cited supra, concluded that an employee cannot be blamed for non-possession of the qualifying service and he cannot be denied the benefit of inclusion in the promotion panel. The same view was



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reiterated by another Division Bench of this Court in ***Government of Tamil***

Nadu v. K.Anbalagan and others, made in WA No.2682 of 2019.

9. In view of the aforesaid categorical pronouncements of this Court, it has to be concluded that neither the delay in sending a person for training at the Bhavanisagar Institution nor the non-fulfillment of required period of service in the feeder category could be a ground to deny promotion unless it is shown that the particular employee was responsible for the same. We have given the dates above, from which it could be seen that at least there was a delay of 5 years in regularising the services of the respondents who were appointed on compassionate grounds. That delay is definitely attributable to the Authorities.

10. Though the respondents were promoted as Assistants in July 2014 by a proceeding dated 02.06.2016, their promotion was advanced to 01.03.2011. If we are to take the date i.e. 01.03.2011, as the date on which the respondents were promoted as Assistants they would have been entitled to be promoted as Rural Welfare Officers, Grade I, much earlier than the actual dates viz. in December 2015. Therefore, it would be unjust to deny



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the benefit to the respondents. It is on record that the respondents have been promoted as Deputy Block Development Officer subsequently and they have been functioning as such. If at all there should be a change it should be in the seniority of the respondents in the category of Deputy Block Development Officers.

11. The learned Additional Advocate General has produced the seniority particulars of the juniors of the respondents. We find that except the first person Mr.V.Manivelan, all the others are juniors to the respondents herein by virtue of their date of entry into service and their date of promotion as assistants. It is stated that the first person, viz. V.Manivelan, who joined as a Zonal Deputy Block Development Officer on 15.02.2017 had taken voluntary retirement on 31.01.2023. Therefore, the respondents herein will have to be placed at positions 1(A) and 1(B) in the seniority list of Deputy Block Development Officers of Dharmapuri District. It is seen that K.Socrates, the respondent in WA No.1640 of 2017 was promoted as Rural Welfare Officer, Grade I on 11.12.2015 and B.Sankar, the respondent in WA No.1641 of 2017 was promoted as Rural Welfare Officer, Grade I, on 21.12.2015. Therefore, K.Socrates, the respondent in WA No.1640 of 2017



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is directed to be placed at Sl.No.1(A) and B.Sankar, the respondent in WA No.1641 of 2017 is directed to be placed at Sl.No.1(B), and they will be deemed to have been promoted as Deputy Block Development Officers from the forenoon on 15.02.2017, viz. the date on which their immediate junior C.Ilayaraja was promoted.

12. As regards the monetary benefits, it should be observed, since the respondents have not worked as Deputy Block Development Officers during that period the monetary benefits will be calculated notionally and the salary in the post of Deputy Block Development Officers will be fixed on the basis that they were promoted as Deputy Block Development Officers from 15.02.2017. We make it clear that they will not be entitled to the difference in salary till the date of their actual promotion. However, the said difference will be taken to confer notional benefits and their pay in the post of Deputy Block Development Officers will be fixed on the basis that they were promoted on 15.02.2017 on par with their immediate Junior Mr.C.Ilayaraja.



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13. In fine, the Writ Appeals are partly allowed with the above modifications. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) (K.GOVINDARAJAN THILAKAVADI, J.)

01.03.2023

jv

Index: Yes
Internet: Yes
Neutral Citation : Yes
Speaking Order

To

- 1.The Secretary to Government,
Government of Tamil Nadu
Rural Development and Panchayat Raj Department,
Fort St. George, Chennai – 600 009.
- 2.The District Collector,
Dharmapuri District.



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