



WEB COPY



W.P.No.23565 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.23565 of 2017

K.Ganesan

... Petitioner

-VS-

1. The State of Tamil Nadu
Rep.by its Principal Secretary to Government,
Fort St. George, Chennai 600 009.
 2. The Secretary to Government of Tamil Nadu,
Finance (BPE) Department, Secretariat,
Chennai.
 3. The Director of Rural Development (PD Section),
Panagal Building, Saidapet,
Chennai – 600 015.
 4. The District Collector and Chairman,
Dharmapuri District Socio Economic
Development Society, Dharmapuri District.
 5. The Project Director of Rural Development
-cum-Member Secretary,
Dharmapuri District Socio Economic Development Society,
Dharmapuri District, Dharmapuri.
- ... Respondents



W.P.No.23565 of 2017

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to absorb the petitioner in Government Service by reckoning the date of appointment as 03.05.1989 and consequent upon winding of Dharmapuri District Development Corporation with all consequential service benefits.

For Petitioner : Ms.T.Hemalatha
For R1 to R4 : Mr.K.H.Ravikumar,
Govt. Advocate
For R5 : Mr.S.Gunasekaran

ORDER

This Writ Petition has been filed, seeking for a direction to the respondents to absorb the petitioner in Government Service by reckoning the date of appointment as 03.05.1989 consequent upon winding of Dharmapuri District Development Corporation with all consequential service benefits.

2. It is the case of the petitioner that he was initially appointed as Research Investigator at Dharmapuri District Development Corporation,



W.P.No.23565 of 2017

Dharmapuri, with effect from 03.05.1989 and the said post was subsequently re-designated as Assistant Evaluation and Research Officer in the year 1991. The Government of Tamil Nadu issued G.O.Ms.No.257, Agriculture (DPAP) Cell, dated 08.07.1996 in and by which the centrally sponsored scheme Drought Prone Areas Programme (DPAP) was restructured and the persons working in DPAP programme were redeployed to other departments and consequently, the petitioner was redeployed to Drought Prone Areas Programme / DRDA which is coming under the Department of Rural Development in the post of Assistant Evaluation and Research Officer.

3. The petitioner was surrendered to his parent Department for the reason that he was not granted permission to continue his service in Tamil Nadu Watershed Development Agency/DWDA by the Government. Though the petitioner was relieved therefrom, he was not given any posting in his parent Department, on account of which, he had filed W.P.No.43283/2017 before this Court, wherein this Court directed the



W.P.No.23565 of 2017

WEB COPY

Authorities to issue posting order to the petitioner. Thereafter, the Government of Tamil Nadu issued G.O.Ms.No.50, RD & PR Department, dated 20.04.2017 and has deputed the petitioner and similarly placed employee, viz., K.Nagarajan in the District Rural Development Agency, Krishnagiri as a special case till the date of their retirement. Consequent to the aforesaid G.O., the petitioner joined the District Rural Development Agency. Even though he is due to retire from service on 30.11.2017, the petitioner opted for voluntary retirement with effect from 31.08.2017 which was also accepted by the Authorities and he is due to retire from service on 31.08.2017.

4. Learned counsel for the petitioner submitted that by G.O.Ms.No.14, Rural Development Department, dated 21.01.2000, the Government issued orders for winding up Dharmapuri District Development Corporation and consequent to the winding up, the Government worked out various modalities and procedure for absorption of staffs who were working in Dharmapuri District Development Corporation in Rural Development



W.P.No.23565 of 2017

Department or any other department in the Government of Tamil Nadu and the persons who were working as Junior Engineer, Office Assistant, Jeep Driver and Watchman were absorbed in the Rural Development Department as evident from G.O.Ms.No.57, Rural Development and Panchayat Raj (E-5) Department, dated 20.06.2013 and G.O.Ms.No.100, Rural Development and Panchayat Raj (E-5) Department dated 02.09.2016.

5. Learned counsel for the petitioner further submitted that till date the respondents have not taken any decision regarding his absorption, as he was working as Assistant Evaluation and Applied Research Officer at Dharmapuri District Development Corporation. Even though he is due to retire from service on 31.08.2017, unless and until an order is passed regarding his absorption in government service he will not get any retirement benefits. Though he had sent several representation seeking absorption in the light of G.O.Ms.No.14, Rural Development Department dated 21.01.2000, there was no response from the Government. Having left with no other efficacious remedy, the petitioner is before this Court.



W.P.No.23565 of 2017

WEB COPY

6. The 5th respondent has filed a counter affidavit, wherein, it has been stated as follows:

i) Government issued order in G.O.Ms.No.61/Rural Development (SGSY) Department dated 06.06.2003 for formation of society known as Dharmapuri District Socio Economic Development Society and the question of absorption of the administrative staff in the newly formed society or in the Rural Development Department will be decided by the Collector in consultation with the Director of Rural Development, Chennai.

ii) A new Society, namely, Dharmapuri District Socio Economic Development Society has been formed and registered on 07.11.2003 under the Societies Act, 1975 as successor body of Dharmapuri District Development Corporation. Simultaneously, as per the direction of the Government Collector, Dharmapuri has sent proposals in Proc.No. 183/2000/A2 dated 24.01.2004 for the absorption of Staff in the Rural



W.P.No.23565 of 2017

Development Department to Director of Rural Development, Chennai.

Government also scrutinized the proposals of the absorption of the employees of Dhamapuri District Development Corporation and classified employees, who come under the purview of TNPSC and employees, who do not come under the purview of TNPSC. The Government, after careful examination of the proposal decided vide G.O.Ms.No.57 Rural Development & Pachayat Raj (E5) Department, dated 20.06.2013 to absorb the category of employees, who do not come under the purview of TNPSC concurrences as well as employees who are working in this category on the date of issue of the order in various Panchayat Development Units and District Rural Development Agency of Krishnagiri and Dhamapuri Districts. Accordingly, 3 Drivers, 11 Office Assistants and 1 Watchman have been absorbed under Rural Development Department as Government employees. Likewise, employees who come under the Purview of TNPSC were referred to TNPSC for concurrence. Some of the staff, who attained superannuation retired under the fold of Dharmapuri District Socio Economic Development Society.



W.P.No.23565 of 2017

WEB COPY

iii) In this juncture, the petitioner opted for voluntary retirement on the afternoon of 31.8.2017. The 4th respondent has ordered accordingly vide proceedings Roc No.150/2015/R14, Dated.31.8.2017 that the petitioner is permitted to retire from service on the afternoon of 31.8.2017, and also eligible to get all retirement benefits on par with the other retired employees of the erstwhile Dharmapuri District Development Corporation. The retirement benefits are shown below

1. Both Employer as well as Employee share of EPF contribution through Regional Provident Fund Office, Salem.
2. EPF contributory Pension.
3. Retirement Gratuity on par with Govt employees
4. Encashment of Earned leave at his credit on the date of retirement.

iv) The petitioner, having opted for voluntary retirement and entitled for all pensionary benefits, cannot seek absorption from the date of his appointment against the procedures prevailing in the Government Rules and Regulations. Thus, the Writ Petition is liable to be dismissed.



W.P.No.23565 of 2017

WEB COPY

7. The 4th respondent has filed a counter affidavit, stating that the petitioner was deployed to the Drought Prone Area Programme Cell, DRDA, Dindigul and was transferred and posted as Project Economist in DWDA, Dindigul, on Foreign Service terms and conditions as per the order of the Chairman & Managing Director, TAWDEVA, Chennai in Ref 18/TAWDEV /2002, dated 14-1-2004. He was again transferred as Project Economist in DPAP Cell, DRDA, Virudhunagar from 08-02-2008 and finally working as Project Economist, DWDA, Virudhunagar, till the disbandment of foreign service post on 11.9.2015. It was further stated that the Dharmapuri District Development Corporation limited, which was constituted under the Companies Act 1956 (Central Act of 1 of 1956) with effect from 07.11.1975, and was wound up based on GO Ms.No.14/Rural Development (SGSY) Department Dated 21.01.2000 to facilitate the establishment of District Rural Development Agency in Dharmapuri District also, as how it had been established in other Districts in consonance with the policy of Government of India. In GO.Ms.No.61. Rural Development (SGSY) Department Dated 06.06.2003, it was clearly ordered that the



W.P.No.23565 of 2017

Dharmapuri District Economic Development Society was to be formed and the question of absorption of the administrative staff of erstwhile Dharmapuri District Development Corporation in the newly formed society or in the Rural Development Department would be decided by the Collector in consultation with the Director of Rural Development. In G.O.(Ms.) No.53, Rural Development and Panchayat Raj (CGS.2) Department dated 19.6.2009, there is no post sanctioned as Assistant Evaluation and Research Officer (AE&RO) and hence, the prayer of the petitioner cannot be entertained and is to be rejected.

8. Heard the learned counsel on either side.

9. A careful scrutiny of the facts of the case shows that the petitioner was initially appointed as Research Investigator at Dharmapuri District Development Corporation, Dharmapuri on 03.05.1989 and the said post was subsequently re-designated as Assistant Evaluation and Research Officer in the year 1991. Thereafter, pursuant to the Government Order in



W.P.No.23565 of 2017

WEB COPY

G.O.Ms.No.257, Agriculture (DPAP) Cell, dated 08.07.1996, the centrally sponsored scheme Drought Prone Areas Programme (DPAP) was restructured and the persons working in DPAP programme were redeployed to other departments and consequently, the petitioner was redeployed to Drought Prone Areas Programme / DRDA which is coming under the Department of Rural Development in the post of Assistant Evaluation and Research Officer. Later, it was decided to divert the petitioner to his parent Department for the reason that he was not granted permission to continue his service in Tamil Nadu Watershed Development Agency/DWDA by the Government. Consequent to the Court Order, vide G.O.Ms.No.50, RD & PR Department dated 20.04.2017, he was deputed to the District Rural Development Agency, Krishnagiri till his retirement.

10. Even though the petitioner had to attain superannuation on 30.11.2017, pursuant to the request made by the petitioner, he was relieved on VRS from the duties with effect from 31.08.2017 and it was stated by the respondents that he had been granted all pensionary benefits. That apart,



W.P.No.23565 of 2017

there is no provision to absorb the petitioner as Assistant Evaluation and Research Officer (AE&RO) on the reasoning that there is no whisper in G.O.(Ms.) No.53, Rural Development and Panchayat Raj (CGS.2) Department dated 19.6.2009 as to the sanctioned post in the cadre of Assistant Evaluation and Research Officer (AE&RO). Therefore, this Court cannot issue a blatant direction to the respondents to absorb the petitioner in the Government Service by reckoning the date of appointment as 03.05.1989 and the relief sought for cannot be granted.

11. In the result, this Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

24.11.2023

Index :Yes/No
Speaking order :Yes/No
Neutral citation :Yes/No
mps



W.P.No.23565 of 2017

WEB COPY

To:

1. The Principal Secretary to Government,
State of Tamil Nadu
Fort St. George, Chennai 600 009.
2. The Secretary to Government of Tamil Nadu,
Finance (BPE) Department, Secretariat,
Chennai.
3. The Director of Rural Development (PD Section),
Panagal Building, Saidapet,
Chennai – 600 015.
4. The District Collector and Chairman,
Dharmapuri District Socio Economic
Development Society, Dharmapuri District.
5. The Project Director of Rural Development
-cum-Member Secretary,
Dharmapuri District Socio Economic Development Society,
Dharmapuri District, Dharmapuri.



WEB COPY



W.P.No.23565 of 2017

V.BHAVANI SUBBAROYAN, J,

mps

W.P.No.23565 of 2017

24.11.2023