



W.P.(MD)No.10912 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.10912 of 2020

J.Antony Raj

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Rural Development and Panchayat Raj,
Secretariat,
Fort St. George,
Chennai – 600 009.

2.The Director,
Rural Development and
Panchayat Raj Department,
Government of Tamil Nadu,
Panagal Building,
Chennai – 600 015.

3.The District Collector & Chairman,
District Rural Development Agency,
Thoothukudi District,
Thoothukudi.

4.The Joint Director/Project Director,
District Rural Development Agency,
Thoothukudi District,
Thoothukudi.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the second respondent to issue suitable orders to place the petitioner as Assistant in Tuticorin District instead of Junior Assistant in District transfer and consequently, include his name in the seniority list of Assistant in Tuticorin District as on 01.02.2003(Junior Most) on the line of letter No.23263/Pa.Aa.4/2019-1, dated 23.01.2020 of the first respondent and on the basis of the petitioner's representation, dated 02.03.2020.

For Petitioner	: No Appearance
For Respondents	: Mr.S.P.Maharajan, Special Government Pleader

ORDER

This writ petition has been filed seeking for a direction to the second respondent to issue suitable orders to place the petitioner as Assistant in Tuticorin District instead of Junior Assistant in District transfer and consequently, include his name in the seniority list of Assistant in Tuticorin District as on 01.02.2003(Junior Most) on the line of letter No.23263/Pa.Aa.4/2019-1, dated 23.01.2020 of the first respondent, on the basis of the petitioner's representation, dated 02.03.2020.



W.P.(MD)No.10912 of 2020

WEB COPY

2. The learned counsel for the petitioner on record passed away.

Hence, this Court issued notice to the petitioner for his appearance and pursuant to which, notice was effected and name of the petitioner was printed in the cause list. However, there is no appearance for the petitioner either in person or through counsel. Therefore, considering the pendency of this writ petition, this Court is inclined to dispose of the same based on the available materials.

3. The case of the petitioner is that the petitioner was selected in Group IV service by the Tamil Nadu Public Service Commission and appointed as Junior Assistant on 26.03.1998. After completion of Departmental Examination and Bhavani Sakar Basic Training, his probation was declared. Subsequently, on 27.09.2001, he was promoted as Assistant in the year 2003. Subsequently, the petitioner was transferred to Thoothukudi Rural Development Agency and assumed office on 10.02.2003 as a Junior Assistant. The grievance of the petitioner is that he is fully qualified to appoint as an Assistant on transfer. However, the authorities allowed the petitioner to join at Tuticorin District only as a



W.P.(MD)No.10912 of 2020

WEB COPY

Junior Assistant. Hence, the petitioner has made a representation to the respondents on 02.03.2020 requesting to fit him in the post of Assistant. However, the same was not considered so far. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

4. The learned Special Government Pleader appearing for the respondents would submit that the petitioner was promoted temporarily as Assistant with effect from 27.09.2001. Subsequently, he was given District transfer from Karur to Thoothukudi District on the undertaking of the petitioner to forgo his seniority. The petitioner was given 'one way' transfer to Thoothukudi District vide order of the second respondent dated 27.12.2002 by incorporating a specific condition that he will be placed below the approved probationer in Thoothukudi District and he was given posting as Junior Assistant. As per Ministerial Service Rules, the persons who were transferred from other Districts by forgoing seniority must be placed just below the approved probationers. Accordingly, the petitioner was placed below the approved probationers in the list of Junior Assistants in Thoothukudi District. Further, the



W.P.(MD)No.10912 of 2020

petitioner submitted his representation only on 02.03.2020 after the clarification letter from the first respondent, dated 23.01.2020, stating that a person who was serving as an Assistant in the parent unit, need not be given posting as Junior Assistant and that District transfer can be given in the cadre of Assistant. However, the same is not applicable to the case of the petitioner as he came on District transfer only in the year 2002-2003 and therefore, there is no merit in the case of the petitioner and hence, this writ petition is liable to be dismissed.

5. Heard the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

6. Admittedly, the petitioner entered into service as Junior Assistant through Tamil Nadu Public Service Commission in the year 1998 and his services were regularized in the year 2000 and his probation was declared in the year 2000. Thereafter, he was given temporary promotion as an Assistant on 27.09.2001. Subsequently, on his own request, he was transferred to Thoothukudi District on the undertaking



W.P.(MD)No.10912 of 2020

WEB COPY

that he will forego his seniority and he joined duty on 10.02.2003 as a Junior Assistant in the Office of the Assistant Director(Audit) Thoothukudi. When the petitioner himself accepted for the condition that he will be paced below the approved probationers in the Thoothukudi District and got transfer, after a lapse of a decade, he cannot claim for promotion or seniority. More over, the earlier promotion given to the petitioner as an Assistant is only a temporary promotion. Therefore, there is no merit in this writ petition and the same is liable to be dismissed.

In the result, this writ petition is dismissed. No Costs.

20.01.2023

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NCC:Yes/No

Index:Yes/No



W.P.(MD)No.10912 of 2020

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To

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W.P.(MD)No.10912 of 2020

M.DHANDAPANI,J.

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W.P.(MD)No.10912 of 2020

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