



WP(MD)No.15956 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.07.2023**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.15956 of 2023

R.Ramanathan

... Petitioner

/vs./

1.The Commissioner of Rural Development,
Rural Development of Panchayat Raj Department,
Panagal Maligai,
Saidapettai,
Chennai.

2.The District Collector,
Tirunelveli District,
Tirunelveli.

3.The District Collector,
Tenkasi District,
Tenkasi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the second and third respondents to consider the representations of the petitioner dated 06.12.2021, 10.06.2022 and



WP(MD)No.15956 of 2023

17.03.2023 and to revise the seniority of the petitioner in the posts of Assistant and Deputy Block Development Officer as ordered by the first respondent dated 10.03.2010.

For Petitioner : Mr.Y.Prakash

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The present Writ Petition is for a Writ of Mandamus, directing the second and third respondents to consider the representations of the petitioner dated 06.12.2021, 10.06.2022 and 17.03.2023 and to revise the seniority of the petitioner in the posts of Assistant and Deputy Block Development Officer as ordered by the first respondent dated 10.03.2010.

2. By consent of both the parties, this Writ Petition is taken up for final disposal.



WP(MD)No.15956 of 2023

WEB COPY

3. The petitioner was appointed as Junior Assistant in Tuticorin District through the selection process conducted by the Tamil Nadu Public Service Commission (TNPSC) and joined as Junior Assistant in Tuticorin District on 17.10.1994. After the completion of probation on 20.11.1996, the petitioner was transferred from Tuticorin District to Tirunelveli District through mutual transfer in the cadre of Junior Assistant in the place of one L.Antro, Junior Assistant in Tirunelveli District in the Rural Development Department, as per the first respondent's order dated 19.01.1999. The first respondent ordered that the seniority of both the employees should be fixed as per Tamil Nadu Ministerial Service Special Rule No.20(b) in the concerned Districts.

4. The petitioner was posted as Junior Assistant in Tirunelveli District Rural Development unit and joined on 01.05.1999 in the place of L.Antro, who is junior to him. He was appointed on 14.12.1995 at the first instance in Tirunelveli District. However, while fixing the seniority, the second respondent wrongly placed the petitioner below the seniority of the said L.Antro, in the seniority list. Despite the wrong placement in the panel list, the petitioner was promoted as Assistant on 14.09.2000. The petitioner appealed to the second respondent to



WP(MD)No.15956 of 2023

WEB COPY

revise the seniority number in the post of Junior Assistant, in accordance with the order dated 19.01.1999 and Tamil Nadu Ministerial Service Special Rule No. 20(b).

5. After being promoted as Assistant, the second respondent revised the petitioner's Junior Assistant seniority on 25.07.2001 as S.No.517A. However, the second respondent refused to revise the petitioner's seniority in the post of Assistant, which was fixed as S.No.614 in the order dated 25.03.2004. Aggrieved by the second respondent's order dated 25.03.2004, the petitioner appealed to the first respondent. The first respondent on considering the appeal, ordered the revision and re-fixation of the petitioner's seniority as per the order dated 10.03.2010. In view of the order dated 10.03.2010, the second respondent in his order dated 25.06.2010, revised the petitioner's panel seniority number in the panel of Assistant for the year 2000-2001, as per the first respondent's order. Further, the second respondent revised the seniority number of the petitioner in the Assistant cadre list issued on 25.03.2004.

6. In addition to that, the second respondent revised the seniority number of



WP(MD)No.15956 of 2023

WEB COPY

the petitioner in the panel list for the year 2010-2011 to the post of Deputy Block Development Officer. The seniority numbers were correctly refixed as per the orders of the first respondent. Subsequently, based on the revised seniority numbers, the petitioner was promoted to Deputy Block Development Officer in Tirunelveli District vide the second respondent's order dated 02.07.2010.

7. However, thereafter, when the second respondent issued an order on 17.03.2011, fixing seniority numbers for the post of Deputy Block Development Officer and further orders on 16.11.2011, for the completion of probation period of Deputy Block Development Officers, the petitioner's name was not included for unknown reasons. Hence, the petitioner appealed to the second respondent to include the petitioner's name in the orders of regularization, completion of probation and fixation of seniority in the post of Deputy Block Development Officer. However, the second respondent failed to pass the necessary orders, despite the petitioner's appeals.

8. The petitioner was constrained to file a writ petition in W.P(MD)No. 2227 of 2015, on this subject matter. This Court, vide order dated 20.02.2015,



WP(MD)No.15956 of 2023

WEB COPY

directed the first and second respondents to consider the petitioner's representations and pass appropriate orders within eight weeks. But to the shock and surprise of the petitioner, instead of considering the petitioner's representations on merits, strangely, the second respondent passed orders on 14.05.2015, canceling the previous order, dated 25.06.2010, wherein the seniority of the petitioner was correctly revised and refixed. The petitioner then appealed again to the first respondent on 12.06.2015, requesting the cancellation of the second respondent's order dated 14.05.2015.

9. In response to the petitioner's appeal, the first respondent, vide letter dated 25.06.2021, clarified and directed the second respondent for refixing of the petitioner's seniority in the post of Assistant and Deputy Block Development Officer as per the earlier order dated 10.03.2010. The petitioner submits that despite the clear directions from the first respondent, the second respondent failed to implement the orders for the last 18 months and redirected the matter to the third respondent. Now the third respondent is delaying for the past 6 months without any valid reason.



WP(MD)No.15956 of 2023

WEB COPY

10. Unless the respondents refix the petitioner's seniority as per the rules and orders, the petitioner will suffer significant prejudice. As per seniority list already published by the second and third respondents, the petitioner was overtaken by his juniors without any valid reason. Therefore, the petitioner sent detailed representation to the respondents, including the representations dated 06.12.2021, 10.06.2022 and 17.03.2023. However, the said representations were not considered so far. Hence, the present Writ Petition has been filed.

11. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

12. It is made clear that without going into the merits of this case, the second and third respondents are directed to consider the representations of the



WP(MD)No.15956 of 2023

petitioner dated 06.12.2021, 10.06.2022 and 17.03.2023 within a period of twelve (12) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. In the result, this writ petition stands disposed of.

03.07.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
BTR

To

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WP(MD)No.15956 of 2023

L.VICTORIA GOWRI, J.

BTR

Order made in
W.P.(MD)No.15956 of 2023

Dated:
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