



W.P.(MD).No.16470 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16470 of 2023

K.Subbiah

... Petitioner

Vs.

1.The Principal Secretary to Government,
Municipal Administration &
Water Supply Department,
Secretariat,
Chennai-600 009.

2.The Director of Town Panchayat,
No.3, MRC Nagar,
Raja Annamalaipuram,
Chennai-600 028.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's latest representation, dated 23.03.2023 in the light of the Letter no. 31479/பேரஞ்.1/2013-2, dated 04.04.2014 of the 1st respondent and the subsequent confidential letter no. 2448/பேரஞ்.1/2023-1, dated 11.05.2023 of the 1st respondent to notionally promote the petitioner from the date on which the petitioner's juniors were promoted as Assistant Director of Town Panchayat on 27.11.2009 and disburse the consequential Pensionary benefits, within a period stipulated time by this Court.



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For Petitioner : Mr.K.Ponnaiah

For Respondents : Mr.D.S.Neduncheliyan
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the respondents 1 and 2 to consider the petitioner's latest representation, dated 23.03.2023 in the light of the Letter no. 31479/பேரஞ்.1/2013-2, dated 04.04.2014 of the 1st respondent and the subsequent confidential letter no. 2448/பேரஞ்.1/2023-1, dated 11.05.2023 of the 1st respondent to notionally promote the petitioner from the date on which the petitioner's juniors were promoted as Assistant Director of Town Panchayat on 27.11.2009 and disburse the consequential Pensionary benefits, within a period stipulated time by this Court.

2. The petitioner retired as Special Grade Executive Officer in the 2nd respondent department on attaining the age of superannuation on 31.03.2012. Originally, he was recruited and appointed as Typist on 30.07.1976 and thereafter, promoted as Town Panchayat Head Clerk / Executive Officer Grade-II. He was subsequently promoted as Selection Grade Executive Officer on



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24.02.1996 and Special Grade Executive Officer on 27.06.2005. The next promotion from the post Special Grade Executive Officer is Assistant Director of Town Panchayats.

3. The 1st respondent in G.O.Ms.No.539 Municipality Administration and Water Supply Department, dated 09.11.2007 approved the promotion panel for 2007-08 of Special Grade Executive Officers comprising 13 incumbents for promotion as Assistant Director of Town Panchayats and the petitioner's position was 11 in the said panel. Out of the panel of 13, the 1st respondent promoted 8 incumbents and the remaining 5 incumbents were not approved during the year 2007-08. However, they were not promoted for want of vacancy. The 1st respondent pursuant to the order of the Hon'ble Apex Court, issued G.O.Ms.No.62 Municipality Administration and Water Supply Department, dated 18.04.2009. In the meanwhile, the petitioner attained superannuation before releasing of state wide seniority, dated 12.07.2013 by the 2nd respondent on 31.03.2012. As a result of which, he was not promoted as he was not in the service on the date of release of the state wide seniority. However, there is no reply on the part of the respondents to consider the petitioner for notional promotion as Assistant Director of Town Panchayats. The 1st respondent in letter, dated 04.04.2014 had informed that the incumbents



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retired after release of state wide seniority would be recast with respect to the seniority of the incumbent employees from the day on which they entered ministerial service. Thereafter, the 2nd respondent issued proceedings, dated 12.07.2023 releasing confirmed state level seniority in respect of all categories of Executive Officers taking into account of state wide seniority. Pursuant to the same, the 1st respondent has reiterated vide confidential letter, dated 11.05.2023 that in the event of juniors having got promotion by virtue of the 2nd respondent proceedings, dated 31.12.2009 in the light of subsequent state wide seniority, dated 12.07.2013, the incumbents denied promotion may be given notional promotion and accordingly, revised pension may be granted.

4. In view of the same, the petitioner made a representation on 05.09.2019 and lastly on 23.03.2023 seeking to promote him notionally as Assistant Director of Town Panchayats from the date on which his juniors were promoted on 27.11.2009 and subsequently, allow pensionary benefits. However, the same was not considered.

5. 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-



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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.

6. Considering the limited prayer sought for by the petitioner, without going into the merits, this Court hereby direct the respondents to consider the petitioner's representations, dated 05.09.2019 and 23.03.2023 and pass appropriate orders in accordance with law. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. In view of the above, this Writ Petition stands disposed of. No costs.

21.09.2023

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

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To

1. The Principal Secretary to Government,
Municipal Administration &
Water Supply Department,
Secretariat,
Chennai-600 009.



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2.The Director of Town Panchayat,
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