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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.447 of 2014

and

M.P.(MD)No.1 of 2014

1.The Secretary to Government,
Municipal Administration and
Water Supply (Peroo-1) Department,
Fort St.Geroge, Chennai-9.

2.The District Collector,
Kanyakumari District,
Nagercoil.

3.The District Town Panchayat Officer,
Kanyakumari District, Nagercoil.

4.The Executive Officer,
Town Panchayat,
Attoor Town Panchayat,
Kanyakumari District.

...Appellants

/Vs./

V.K.Radhamani

...Respondent



PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to set aside the order dated 25.03.2011 in W.P.(MD)No.759 of 2008 on the file of this Court.

For Appellants : Mr.S.Shaji Bino
Special Government Pleader
For Respondent : Mr.G.Marichamy
for Mr.P.Thiagarajan

JUDGMENT

(Judgment of the Court was made by **R.VIJAYAKUMAR, J.**)

The State has filed the present writ appeal challenging the order of the writ court in W.P.(MD)No.759 of 2008, wherein the order of the District Collector rejecting the request of the writ petitioner for grant of promotion was set aside.

2. The writ petitioner was appointed by the District Collector on 30.03.1985 de hors of the Service Rules. Questioning the said appointment, the first respondent by order, dated 27.08.1987 had directed the District Collector to terminate the writ petitioner with immediate



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effect. After her successful attempts before the State Administrative Tribunal and before this Court, the Government was pleased to pass a Government Order in G.O.Ms.No.98 (2 Pa.), Municipal Administration and Water Supply Department, dated 21.07.2007 regularizing the services of the writ petitioner in the post of Record Clerk from 04.04.1985. As per the said Government Order, the writ petitioner was eligible to receive annual increments and also arrears of salary.

3. When the writ petitioner made a request for promoting her to the post of Junior Assistant, the said request was rejected by the District Collector by an order dated 31.10.2007, which was the subject matter of the writ petition in W.P.(MD)No.759 of 2008. This Court by order, dated 25.03.2011 had quashed the order of the District Collector and directed him to promote the petitioner notionally as Junior Assistant from the date, on which her immediate juniors were promoted and to fix the revised pay on notional basis and to pay the actual pay of the promoted post from the date, on which she has been posted to the promoted post. This order is under challenge in the present appeal.



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4. According to the learned Special Government Pleader appearing for the appellants, the very appointment of the writ petitioner is dehors of the service rules and therefore, she is not entitled to seek any promotion from the post of Record Clerk. It is further contended that the appointment can be done only through the Tamil Nadu Public Service Commission and therefore, the present appointment being illegal, the question of seeking promotion would not arise.

5. Per contra, the learned counsel for the respondent / writ petitioner contended that having appointed the writ petitioner and regularised her services from the date of her appointment by way of G.O.Ms.(2 Pa.) No.98, dated 21.06.2007, the appellants cannot turn around and contended that the writ petitioner has been appointed dehors of the service rules.

6. Perusal of the Government Order issued by the Municipal Administration and Water Supply Department clearly indicates that the



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service of the writ petitioner in the post of Record Clerk has been regularised with effect from 04.04.1985. Once the service of the writ petitioner has been regularised, all other consequential service benefits will follow. The source of recruitment cannot be a hurdle to consider the candidate for promotion. Therefore, the appellants cannot be heard to contend that the writ petitioner is not entitled to any promotion to the higher post. We do not find any irregularity or infirmity in the order passed by the learned Single Judge. The Writ Appeal lacks merits and accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[A.S.M.J.] & [R.V.J.]
04.07.2023

NCC :Yes/No
Index :Yes/No
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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Order made in
W.A.(MD)No.447 of 2014

Dated:
04.07.2023