



W.P.(MD).No.995 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.10.2023

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.995 of 2016

1.Haja Umma

2.Sita

3.S.R.Sundaravalli

4.Light Rose Lilly

.. Petitioners

Vs.

1.The Secretary to Government,
Social Welfare and Nutritious Meal Programme Department,
Government of Tamil Nadu,
Secretariat,
Chennai – 9.

2.The Director,
Social Welfare Department,
Government of Tamilnadu,
Chepauk,
Chennai – 5.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent under Letter No.11097/Sa.Na.



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1(1)/2015-1 dated 21.08.2015 and quash the same and consequently directing the respondents herein to give notional promotion to the petitioners to the post of Child Development Project Officer with effect from the date when it was due and to pay the amount due to them and to revise their pensionary benefits accordingly.

For Petitioners : Mr.V.Kannan

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

The present Writ Petition has been filed challenging the proceedings of the first respondent dated 21.08.2015 and consequently, to direct the respondents herein to give notional promotion to the petitioners to the post of Child Development Project Officer with effect from the date when it was due and to pay the amount due to them and to revise their pensionary benefits accordingly.

2. The petitioners are four in number. They claim that they were selected for appointment to the post of Supervisor in the World Bank Project under the Tamil Nadu Integrated Nutrition project in Tirunelveli District. The inter se seniority of the Supervisor Grade II and Rural Welfare Officer



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(Woman) had to be fixed with respect to the date of regularisation.

According to the petitioners, the promotion to the post of Supervisor Grade I has to be made only on the basis of the said inter se seniority. The petitioners allege that the inter se seniority was never published by the Government and the Supervisor Grade II posts were filled only on the basis of direct recruitment. Screening the mode of appointment, promotions were made only from the category of Rural Welfare Officer (Woman). Since the promotion was not given to the petitioners, when it was due, they were aggrieved.

3. By a letter dated 01.11.2008, the Director of Social Welfare Department/second respondent had requested the Government to fill up 171 posts of Child Development Project Officers from the category of Supervisor Grade I. If the posts of Supervisor Grade I had been filled up, then automatically, the petitioners, who are in the capacity of Supervisor Grade II, would secure the promotion. Consequent to the request made by the second respondent, the posts of Child Development Project Officers were filled up and the petitioners were promoted to the post of Supervisor



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Grade I. They were given promotion with effect from the date on which their juniors had been given promotion. This was on 23.05.2013 with effect from 18.08.1997. The grievance of the writ petitioners is that they should have been promoted to the post of Child Development Project Officers as they were entitled to it.

4. In the meantime, the first petitioner had gone on voluntary retirement from service on 30.11.2013 and the petitioners 2 to 4 retired from service on attaining the age of superannuation on 28.02.2013, 31.03.2014 and 31.12.2013 respectively. The petitioners made representations to the first respondent seeking notional promotion to the post of Child Development Project Officer with effect from the date it was due to them and also to pay the financial benefits due to them on such promotion and accordingly, to revise the pensionary benefits. The said representations were rejected by the first respondent on 21.08.2015 on the ground that none of the persons, who were similarly situated like the petitioners or their juniors, had been given promotion to the post of Child Development Project Officer. This order is impugned before me.



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5. The learned Government Advocate appearing for the respondents would point out that none of the juniors in service to the writ petitioners had ever been given the promotion of Child Development Project Officers and therefore, the basic contention of the petitioners has to fail.

6. I heard Mr.V.Kannan, learned counsel for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents.

7. A perusal of the counter affidavit filed by the second respondent would show that the basic allegation of the petitioners that inter se seniority was never fixed, is contrary to the records. In fact, the Director of Social Welfare Department, Chennai, in his proceedings in ROC.7483/Admn. 3(4)/2008 dated 26.02.2010, had published the inter se seniority. The petitioners were entitled to the post of Supervisor Grade I on the promotion of their juniors to the said post and in fact, the said promotion had been



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granted. Further more, had any of the juniors of the petitioners been promoted, the petitioners should have sought for the said relief immediately.

The junior of the petitioners, one Smt.Savithri, had been granted promotion to the post of Supervisor Grade I on 18.08.1997 and invoking Fundamental Rules 27(17), the said relief has also been granted to the petitioners.

8. Insofar as the relief for Child Development Project Officer is concerned, the petitioners have not shown that those who had been similarly situated like the petitioners or their juniors, had been given the said promotion. The records reveal that all of them had retired from the post of Supervisor Grade I without achieving the next promotional post of Child Development Project Officer.

9. These aspects have been carefully considered by the first respondent and in fact, the first respondent has noted the petitioners' inability to point out which of the juniors had been granted promotion to the next post. In the light of the fact that the petitioners have failed to prove their entitlement to the post of Child Development Project Officer, this Writ



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Petition necessarily has to fail. Accordingly, the Writ Petition stands dismissed.

10. At this stage, Mr.V.Kannan would submit that the inter se seniority between those who had been promoted from Supervisor Grade I to Child Development Project Officer is a subject matter of Writ Petition before the Principal Seat and any order that is passed in that Writ Petition will also have effect on the petitioners' seniority.

11. In this Writ Petition, I am only concerned with the fact whether the petitioners have made out a case for being granted promotion under the Fundamental Rules 27(17), i.e., to say to be given benefit of promotion to the petitioners from the date on which their juniors had been promoted. That factum being absent, I am not inclined to grant the Writ sought for by the petitioners. If any benefits will flow out of the order to be passed by the Principal Seat, the dismissal of this Writ Petition will not stand in the way.

12. With the above observations, the Writ Petition stands dismissed.



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There shall be no order as to costs.

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

To

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Government of Tamil Nadu,
Secretariat,
Chennai – 9.

2.The Director,
Social Welfare Department,
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V.LAKSHMINARAYANAN,J.

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