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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

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THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.19286 of 2015
and
M.P.No.1 of 2015

B.Anif Khan ...Petitioner

Vs.

1. The District Collector,
   Cuddalore, Cuddalore District.

2. The Chairman,
   Tamil Nadu Public Service Commission,
   Chennai 600 001 .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified mandamus, calling for the records relating to the orders passed by the 1st respondent in Na.Ka.No.பதி3/1630/2015, dated 21.05.2015 and quash the same insofar as paragraph 4 of the order is concerned and consequently direct the respondents to approve the promotion of the petitioner as Rural Welfare Officer from the year 2009-2010 and direct the first respondent to pay all

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the attendant benefits to the petitioner.

* * *

For Petitioner : Mr.A.R.Nixon

For Respondent-1: Mr.Alagu Goutham

For Respondent-2 : Mr.R.Bharanidharan

ORDER

The petitioner is before this Court seeking to quash the order of the first respondent and consquently direct the respondents to approve his promotion as Rural Welfare Officer from the year 2009-2010 and direct the first respondent to pay all the attendant benefits.

2. The petitioner was appointed as Panchayat Clerk on and from 21.09.1987 in Nallur Union, Virudhachalam Taluk. Thereafter, his post is entitled to be re-designated as Rural Welfare Officer Grade-II by promotion based on seniority. He worked as Panchayat Clerk for over 27 years as on 2014. The petitioner would submit that he was eligible

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for promotion to the post of Rural Welfare Officer Grade-II as early as in the year 2009-2010. He had been promoted to the said post only in the year 2014. He therefore sent a representation to the first respondent stating that the promotion ought to have been predated from the year 2009-2010. The petitioner's grievance is that had he been given promotion in the year 2009-2010, his services would have fixed at the appropriate place. The seniority list has been published only on 01.01.2015. Since the representation has been rejected, the petitioner is before this Court.

3. A counter has been filed by the first respondent admitting the fact that the petitioner was eligible for the promotion in the year 2009. However it is the contention of the respondents that along with the petitioner, the other persons, namley, R.Anbalagan and M.R.Sekar, Kumaratchi and Virudhachalam Block Development Officer respectively were eligible to be promoted as Panchayat Assistants as per the seniority list. It is also their contention that the instructions have been issued by

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the Commissioner of Rural Development in his letter dated 06.05.2010 stating that the proposals of the recommended officials shall be annexed with the original educational qualification certificates and the genuineness of these certificates shall be verified. It was the Director, Government of Examintion, Chennai who had certified the genuiness of the certificates. N.Anbalagam had retired from service on 31.03.2012 and therefore, his proposal was returned. The next candidate N.Karunanithi was recommended for the panel 2010-2011 and he had expired on 07.06.2011. Finally, the revised proposals in respect of the petitioner, M.R.Sekar and one V.Mayakrishnan were forwarded to the Director of Rural Development on 09.04.2013. Thereafter, the proposal was forwarded by the Director of Rural Development, Chennai to the Government on 12.05.2014 and the Government has recommended it to the Tamil Nadu Public Service Commission on 26.08.2014 for their concurrence. The Tamil Nadu Public Service Commission had given its concurrence on 28.08.2014. The petitioner had joined the ministerial service on 24.10.2014. Previously, the petitioner was working in the

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non-provincialised service and the same was governed by different set of Rules. Considering the fact that the petitioner's name had been approved on 24.10.2014, seniority could be fixed only on that date and for this reason, the petition was rejected.

4. Heard the learned counsels and perused the materials available on record.

5. From the above facts, it is clear that though the petitioner was eligible for promotion in the year 2009, the first respondent has recommended his name only in the year 2010, i.e. on 03.06.2010 and thereafter it is seen that the petitioner was called for submitting the documents in the year 2011. Even thereafter, the first respondent has kept quiet and has not taken steps to send the report immediately. They waited to have two other candidates to be substituted in the place of Anbalagan and Karunanidhi who had retired from service and died

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respectively. It is seen that TNPSC has given its concurrence within a period of 2 days from the receipt of the letter from the petitioner. The narration would clearly show that the delay was only on the part of the first respondent and the petitioner has not contributed to the same. The respondents therefore cannot shirk their responsibility to ensure that the employees get their seniority in time. Therefore, the writ petition is allowed as prayed for. The order of the first respondent is quashed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes
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To

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P.T.ASHA, J.

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