



W.P.No.22372 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

W.P.No.22372 of 2012

S.Ravichandran ... Petitioner

Vs.

The District Collector, (PD Section),
Vellore District,
Vellore ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to refix the seniority of the petitioner in the cadre of Deputy Block Development Officer by following the seniority list of Assistant fixed in the proceedings R.O.C.No.PA3/10783/2011 dated 14.03.2012 of the respondent herein without insisting for service qualification with all consequential benefits such as retrospective promotion etc.

For Petitioner : Ms.T.Hemalatha

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

Direction is sought for to refix the seniority of the petitioner in the cadre of Deputy Block Development Officer by following the seniority list



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of Assistant fixed as per Proceedings in R.O.C.No.PA3/10783/2011 dated 14.03.2012 issued by the respondent without insisting for service qualification with all consequential benefits such as retrospective promotion etc., and pass such other orders.

2. The petitioner Mr.S.Ravichandran was working as Deputy Block Development Officer at Vellore, Vellore District. He was initially recruited through Tamil Nadu Public Service Commission (TNPSC) for appointment to the post of Steno-Typist and he joined in the Rural Development Department at Vellore on 10.02.1993. He was appointed as Steno-typist pursuant to the notification issued by the Tamil Nadu Public Service Commission (TNPSC) dated 23.04.1991.

3. On 01.08.1992, by G.O.Ms.No.256 P & AR Department, the Government of Tamil Nadu created two categories of posts namely Steno Typist and Typist. As per G.O.Ms.No.284 P & AR., Department, dated 19.08.1982, Steno-Typists were divided into three categories namely Grade-I, Grade-II and Grade-III. As per G.O.Ms.No.417 P and AR Department, dated 01.12.1993, the Government passed an order to the effect that Steno Typists are not eligible for promotion to the post of



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Assistant w.e.f.,01.08.1992. Thereafter, in G.O.Ms.No.34, P & AR Department, dated 21.02.2001, the Steno-Typist can be appointed as Assistant by appointment of transfer against 5% of the vacancy arises in the post of Assistant every year. Meanwhile, the Government of Tamil Nadu issued instructions on 22.12.2011, that the Steno-Typists who were appointed prior to 01.08.1992, or appointed pursuant to notification issued by the TNPSC for appointment to the post of Steno-Typist prior to 01.08.1992, their seniority in the cadre of Assistant has to be fixed as per Rule 35(a) of Tamil Nadu Subordinate Service Rules.

4. The petitioner further submits that by a proceedings in R.O.C.No.PA3/10783/2011 dated 14.03.2012, seniority was refixed in the cadre of Assistant from Rank 810 to Rank No.810(a) between one Mr.M.Gajapathy and Mr.S.Sivakumar.

5. The petitioner further submits that his seniority was fixed on the ground that he has acquired service qualification for work for a period of one year in the post of Rural Welfare Officer Grade-I belatedly. The petitioner was promoted as Assistant on 08.12.2006 and further promoted as Deputy Block Development Officer only on 11.07.2012.



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6. Heard Ms.T.Hemalatha, learned counsel appearing for the petitioner and Mr.S.Rajesh, learned Government Advocate appearing for the respondent.

7. The learned counsel for the petitioner Ms.T.Hemalatha, vehemently contended that acquisition of service qualification cannot be equated with acquisition of test qualification. Acquisition of test qualification lies purely in the hands of the individuals, whereas acquisition of service qualification solely depends on posting order issued by the Authorities. Because of his delayed promotion to the post of Assistant and further he would not put in one year of service in the cadre of Rural Welfare Officer, Grade-I, before his immediate junior Mr.Sivakumar got promoted as Deputy Block Development Officer. Therefore, she would conclude her arguments by stating that the petitioner is not at all responsible for not acquiring the service qualification within the time. To buttress her arguments, the following judgments were referred to:

(i) P.T.Ravindranath vs. The State of Tamil Nadu in W.A.No.1582 of 2011 and W.P.No.16761 of 2011, dated 18.02.2013.



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(ii) The District Collector, Tuticorin v. S.Sasisivanandam in W.A.No.391 of 2012, dated 28.10.2014.

(iii) K.Socrates and another v. The State of Tamil Nadu represented by its Secretary Rural Development and Panchayat Raj Department, and another in W.P.Nos.5447 and 5448 of 2017 dated 16.06.2017.

iv) In Vijayawada-Guntur-Tenali Urban Development Authority and Others v. Movva Ranga Rao and Others reported in 1996 (8) SCC 671. The Apex Court has observed as follows:

It is held that the Government servant cannot be denied promotion for want of service qualification, if he was not given a chance to acquire the service qualification by the department head. As the department is bound to place the Government servant in a particular post, to acquire the service qualification, the officer/employee cannot be blamed for not possessing such service qualification.

8. As per G.O.Ms.No.585 Rural Development & Local Administration Department, dated 12.04.1984 new service rules were introduced, wherein, as per Rule 5(ii) is extracted hereunder:

*"For promotion to the Post of Extension Officer,
a person should have worked as Rural Welfare*



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Officer, Grade-I, and Assistant OR Accountant for a period of not less than one year in each post."

9. The learned Government Advocate would *inter-alia* contend that while formulating the Constitution of Tamil Nadu Panchayat Development Service Rules, the Government in G.O.Ms.No.585/Rural Development & Local Administration Department, dated 12.04.1984, has emphasised in para 5(ii) c for promotion to the post of Deputy Block Development Officer, a person should have worked as Rural Welfare Officer, Grade-I for a period of not less than one year. He completed the prescribed service qualification only during 2011-12 and hence, he was promoted as Deputy Block Development Officer, w.e.f.11.07.2012.

10. As rightly contended by the learned counsel for the petitioner, the service qualification cannot be acquired by the petitioner, if at all an opportunity was given to the employee or officer, he or she would acquire the service qualification. It is the responsibility of the employer to send employee in time without affecting their due promotional opportunities. Lastly, the learned counsel for the petitioner placed another Government Order in G.O.(Ms).No.55 Rural Development and Panchayat Raj (E4)



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Department, dated 26.05.2017, wherein, the service qualifications enumerated as above was done away.

11. It appears that as per the Proceedings in Na.Ka.No.PA2-12584/2009 dated 18.03.2010, of the respondent, the promotion panel for Assistant Block Development Officer was issued wherein his immediate junior S.Sivakumar is placed Sl.No.164. In the light of the said seniority list, the petitioner's representation be considered.

12. Based on the findings of the Hon'ble Supreme Court and the submissions, this writ petition stands allowed and the petitioner shall give representation afresh within a period of two weeks(2) from the date of receipt of a copy of this order and the respondent shall complete the said exercise within a period of eight(8) weeks from the date of receipt of such representation from the petitioner. There is no order as to costs.

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Index : Yes / No
Neutral Citation Case : Yes / No
Speaking Order / Non-Speaking Order
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To

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Vellore District,
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R.KALAIMATHI, J.,

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