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W.P.Nos.3764 & 3769 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

**W.P.Nos.3764 & 3769 of 2020**  
**and**  
**W.M.P.Nos.4452 & 4462 of 2020**

B.Thandavamoorthy ..Petitioner in W.P.No.3764 of 2020

C.Arumugam ...Petitioner in W.P.No.3769 of 2020

-Vs-

1.State of Tamil Nadu  
rep by its Secretary to Government,  
Rural Development and Panchayat raj Department,  
Fort St. George,  
Chennai -9.

2.Director,  
Commissionerate of Rural Development and Panchayat Raj,  
Panagal Building,  
Chennai – 15.

3.District Collector,  
Thiruvannamalai District,  
Thiruvannamalai.

...Respondents in both W.Ps.,

**Prayer in W.P.No.3764 of 2020:** Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the G.O.(Pa).No.485, Rural



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Development and Panchayat (E-6) department dated 27.09.2013 on the file of the 1<sup>st</sup> respondent herein and the order dated 06.08.2019 in Na.Ka.No.4240/2019/ Pa.A.3-10 dated 06.08.2019 of the 3<sup>rd</sup> respondent herein and quash the same and consequently direct the respondents herein to forthwith re-fix the seniority of the petitioner herein in the post of Rural Welfare Officer Grade-II taking into account the service of the petitioner herein from 25.06.1971 to 09.08.1979 and accordingly grant notional promotion in the post of R.W.O. Grade-I /Assistant, Extension Officer, Deputy B.D.O., B.D.O and then in the post of Assistant Director on par with junior and extend all consequential monetary benefits including arrears of pension due to the petitioner herein with interest in accordance with law.

**Prayer in W.P.No.3764 of 2020:** Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the proceedings of the 2<sup>nd</sup> respondent herein in his Na.Ka.No.13429/2012 GE2.1 dated 27.10.2012 and the proceedings of the 3<sup>rd</sup> respondent herein in his Na.Ka.No.4240/2019/ Pa.A.3-10 dated 06.08.2019 of the 3<sup>rd</sup> respondent herein quash the same in so far as it relates to the petitioner herein and consequently direct the respondents herein to forthwith revise the seniority of the petitioner herein in the post of Rural Welfare Officer Grade II taking into account the services of the petitioner herein from 28.05.1971 to 13.02.1980 and grant notional promotion with pay fixation in the post of R.W.O. Grade-I / Assistant, Extension Officer, Deputy B.D.O., B.D.O and then in the post of Assistant Director on pay with junior and extend all consequential monetary benefits including arrears of pension due to the petitioner herein with interest in accordance with law.



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For Petitioner (in both W.Ps) : Mr.V.R.Rajasekaran  
For Respondents (in both W.Ps) : MrV.Manoharan  
Additional Government Pleader

**COMMON ORDER**

W.P.No.3764 of 2020 has been filed challenging the G.O.(Pa).No.485, Rural Development and Panchayat (E-6) department dated 27.09.2013 on the file of the 1<sup>st</sup> respondent herein and the order dated 06.08.2019 in Na.Ka.No.4240/2019/ Pa.A.3-10 dated 06.08.2019 of the 3<sup>rd</sup> respondent herein and quash the same and consequently direct the respondents herein to forthwith re-fix the seniority of the petitioner herein in the post of Rural Welfare Officer Grade-II taking into account the service of the petitioner herein from 25.06.1971 to 09.08.1979 and accordingly grant notional promotion in the post of R.W.O. Grade-I /Assistant, Extension Officer, Deputy B.D.O., B.D.O and then in the post of Assistant Director on par with junior and extend all consequential monetary benefits including arrears of pension due to the petitioner herein with interest in accordance with law.

2. W.P.No.3769 of 2024 has been filed challenging the proceedings of the 2<sup>nd</sup> respondent herein in Na.Ka.No.13429/2012 GE2.1 dated 27.10.2012 and the proceedings of the 3<sup>rd</sup> respondent herein in his



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Na.Ka.No.4240/2019/ Pa.A.3-10 dated 06.08.2019 of the 3<sup>rd</sup> respondent herein

quash the same in so far as it relates to the petitioner herein and consequently direct the respondents herein to forthwith revise the seniority of the petitioner herein in the post of Rural Welfare Officer Grade II taking into account the services of the petitioner herein from 28.05.1971 to 13.02.1980 and grant notional promotion with pay fixation in the post of R.W.O. Grade-I / Assistant, Extension Officer, Deputy B.D.O., B.D.O and then in the post of Assistant Director on pay with junior and extend all consequential monetary benefits including arrears of pension due to the petitioner herein with interest in accordance with law.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. Similar writ petitions were allowed by this Court and aggrieved by the same, the first respondent filed a batch of writ appeals in W.A.Nos.686 to 692 of 2020 before this Court. The Hon'ble Division Bench of this Court, by an order dated 14.03.2024, allowed the writ appeals. The relevant portion of the order is extracted hereunder :



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6. *We had gone through the initial order of the Division Bench of this Court in a batch of Writ Petitions in W.P.No.19960 of 1994 and etc., batch dated 19.04.2005. It is true that the Writ Petitions came to be filed by similarly placed Grama Sevaks. A thorough reading of the aforesaid judgment would indicate that the Rules relating to the Grama Sevak namely the Grama Sevaks Service Rules, 1964 was placed before the Division Bench of this Court. The Division Bench had in fact extracted Rule 11 of the said Rules, wherein, the Rule envisaged that the seniority of the Grama Sevaks shall be fixed with reference to the aggregate marks obtained by them, which had in the tests held during the period of training that is referred to in Rule 9 and in the final examination on the completion of the training.*

7. *It is to be noted that the Division Bench was not appraised the subsequent amendment made in the year 1971, wherein, 1964 Rules were superseded and a new set of Rules were made. Rule 11 dealt with seniority which was the same as available in Rule 11 of the 1964 Rules. But, however, Rule 12 dealt with postings and transfers. Rule 12(b) of the Rules in clear terms would indicate that when a transfer is by a mutual consent or at a request, the person will take his rank last in list of probationer/ approved probationer/ full members as their case may be in that category. The said Rules again underwent an amendment in the year 1976, wherein, the 1971 Rules were superseded and the said Rules was deemed to have come into*



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*force on 02.07.1971, that is on the date of which the 1971 amendment were notified. Under the said Rules it could be seen that the Rule 11 regarding the fixation of seniority had been omitted and the Rule 12 of the 1971 Rules became Rule 11. Under Rule 11(b), the similar provision of fixation of the seniority of a person who had by transfer through mutual consent or his request had been retrietaled. For better appreciation, Rule 11(b) is extracted hereunder:-*

*“11. **Postings and Transfers:** (a).....*

*(b) In case of transfer by mutual consent or at request the person will take his rank last in the list of probationers or approved probationers or full members as the case may be in that category.”*

*8. It is unfortunate that this amended Rule had not been placed before the Division Bench of this Court in an earlier batch of Writ Petitions. Since, the Division Bench felt that there was no provision for fixation of a seniority of a transferred person either on administrative grounds or on request, had applied only Rule 35B of the Tamil Nadu State Sub ordinate Service Rules. Had this amended Rules been placed before the Division Bench, we are sure the Division Bench would not have taken such a view. This conclusion we arrive at is on the basis of a well settled principle that when a Special Rule is available for a particular cadre of service, then the General Rules cannot be made applicable to that cadre of services.*



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9. *In view of the aforesaid findings and reasonings, we are of the view that the judgment of the Co-ordinate Bench had not laid down the correct preposition of law for us in to fall in line with the same. Since the learned Single Judge had relied upon the said judgment in coming to a conclusion that the respondents who are similarly placed persons who were the beneficiaries of the Division Bench judgment could also be extended with the same benefit. The learned Single Judge had also not looked into the said Rule eventhough it had been brought to the notice of him. Therefore, the orders impugned before us would have to necessarily be interfered with.*

10. *In fine, these Writ Appeals are allowed and the orders passed by the learned Single Judge, impugned in these Writ Appeals are set aside and consequently, the Writ Petitions filed by the respective respondents are dismissed. However, no order as to costs. Consequently, connected miscellaneous petitions are closed.”*

5. In view of the above, both the writ petitions are dismissed.

Consequently, connected miscellaneous petitions are closed. No costs.

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Internet: Yes  
Index : Yes/No  
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**G.K.ILANTHIRAIYAN. J,**

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To

- 1.The Secretary to Government,  
State of Tamil Nadu  
Rural Development and Panchayat raj Department,  
Fort St. George, Chennai -9.
- 2.The Director,  
Commissionerate of Rural Development and Panchayat Raj,  
Panagal Building, Chennai – 15.
- 3.The District Collector,  
Thiruvannamalai District,  
Thiruvannamalai.

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