



W.P.No.22709 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.11.2023

Pronounced on : 21/3/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.22709 of 2015

1.K.Sundararajan
2.M.Singaram
3.R.Chinnaraj
4.S.Sekar
5.A.Azhaguvel
6.A.Shanmugam
7.K.Mathalai Mery
8.K.Ignotchiammal
9.K.Motcharaagini
10.R.Manoharan
11.L.Chellapillai

... Petitioners

Versus

The District Collector (PD Section)
Salem District
Salem.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondent to grant notional benefits to the petitioners from the year in which they were



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service rendered by the petitioners in the post of Panchayat Assistant

Grade II along with regular government service.

2. The petitioners who were originally working as Panchayat Assistants Grade - & II, which is now being called Panchayat Secretary have allegedly come to the zone of consideration for promotion to the post of Junior Assistant in the year 1993 – 1994. On 10/9/2001, the District Collector/Respondent has addressed a letter to the Tamil Nadu Public Service Commission for appointing the petitioners as Junior Assistants from the cadre of Panchayat Clerks. On 29/7/2004, the Tamil Nadu Public Service Commission, gave its concurrence for appointing the petitioners as Junior Assistants by way of transfer. Seniority will be fixed from the date of appointment not from the date of inclusion in the panel of Junior Assistant. Consequently, the petitioners were appointed as Junior Assistants with effect from 13/9/2004.

3. The grievance of the petitioners is that though the petitioners were eligible, came under the zone of consideration and were eligible to be promoted as Junior Assistants in the year 1993 – 1994, they have actually promoted with effect from 13/9/2004, thereby, huge delay was



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caused in appointing them on account of administrative delay. Even though the first petitioner was retired from service on 30/11/2013, gave a representation to the respondent on 8/12/2014, seeking notional benefits. However, the said representation was rejected by the respondent/District Collector on 24/3/2015 on the ground that the first petitioner was appointed only after 1/4/2003 as Junior Assistant and therefore, he was not entitled for any regular pension by referring the Tamil Nadu Public Service Commission Proceeding, dated 29/7/2004. Subsequently, the petitioners herein gave a joint representation on 30.05.2015 to grant notional benefits from the year of inclusion in the panel of Junior Assistant. Till date the respondent has not passed any order on the representation made by the petitioners. Hence, the petitioners herein filed this writ petition.

4. The Collector, Salem has filed a counter affidavit, wherein it is stated that the petitioners have not challenged any of the orders of the respondent. The petitioners have unnecessarily impleaded him as a party, which has resulted much inconvenience to the administration.



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5. Heard Ms.T.Hemalatha, learned counsel for the petitioners and Mr.R.U.Dinesh Raj Kumar, learned Additional Government Pleader for the respondent.

6. The Learned counsel for the petitioners submitted that petitioners were eligible for the post of Junior Assistant even in the year 1993-1994 itself and only due to inordinate administrative delay of 10 years, the petitioners were appointed in the year 2004. Therefore, they were entitled to notional benefit from the date of inclusion in the panel of Junior Assistant and not from the date of appointment.

7. It is submitted by the learned Additional Government Pleader that the delay occurred in putting the petitioners on account of various administrative reasons. While preparing the panel for promotion as Junior Assistant, the proposals were submitted to the Government with 10 Panchayat Clerks. In most of the cases, fake and bogus certificates were produced by the candidates. Thorough scrutiny of the certificates was done, wherein, it is found that certificates produced by 19 Panchayat Clerks were found to be bogus for which a Police enquiry was also conducted.



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WEB COPY 8. Perused the materials available on record.

9. The petitioners gave a joint representation on 30/5/2015 to grant them notional benefits from the year of inclusion in the panel of Junior Assistant, such as pay increment and bring them into regular pension Scheme which was vogue prior to 1/4/2003 by counting their 50% of service rendered by the petitioners in the post of Panchayat Clerk along with regular Government Service.

10. The petitioners have failed to submit any provision under which they are entitled for conferring notional benefits. As per the letter of the District Collector, it is clear that the petitioners have come to the zone of consideration in the year 1993 – 1994. However, lot of time took place on account of administrative delay in getting the approval from Tamil Nadu Public Service Commission. If really, the promotions were given in the year 1993 – 1994, as rightly submitted, the petitioners would have got the benefit of early promotion and increments, etc. But the question is on account of administrative delay, if the promotions are delayed, can the period from which they are eligible to be included in the panel can be



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considered notionally while calculating the pension, promotion and other benefits.

11. Learned counsel for the petitioners have cited a judgment of this Court in W.P.Nos.21507 & 21730 of 2014, dated 4/1/2023, wherein, a learned Single Judge of this Court has held as follows:-

“14. There can be no doubt that only due to administrative delay on the part of the respondents in getting the concurrence from the TNPSC, the petitioner's promotion to the post of Junior Assistant is delayed and posted as Junior Assistant on 15/2/2011, who were originally eligible for promotion in the year 2002 – 2003 panel. Consequently, their further promotions also got delayed and their consequential benefits are affected.”

12. In the case referred to by the petitioner, seniority of the Junior Assistants was directed to be given notionally from the year 2006 instead



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of 2011. From the year of lifting of the ban, as the petitioners are due for promotion from the year 2002 – 2003. This judgment is not applicable to the facts of the case as the petitioner in W.P.No.21507 and others have made the Government of Tamil Nadu, Director of Rural Development and Panchayat Raj also as respondents apart from the District Collector. In the case on hand, the District Collector is only made as respondent. He is not competent to defend the petitioner and give the relief as sought for by the petitioner. The petitioners are working within the Salem District, thereby Salem District is made as respondent. He is not competent to grant the relief sought for by the petitioners.

13. On considering the rival contentions, it is clear that there is no rule to the effect that the petitioners seniority has to be considered at least notionally from the year in which their names were included in the panel. The Public Service Commission is very much specific that even though they were appointed against the vacancy, their seniority has to be counted only from the date of their appointment i.e., from the year 2004.



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14. The grievance of the petitioner is not against the District Collector. In fact, it is the District Collector who has requested the Service Commission to give clearance in so far as the petitioners are concerned for promotion as Junior Assistants. The Government of Tamil Nadu as well as Rural Development Authority are the necessary parties in this writ petition. Hence, the relief sought for by the petitioner cannot be granted on the ground of non inclusion of necessary party as well. In view of the above, the petitioners have failed to make out a case.

15. In the result, this writ petition is dismissed. No costs.

21/3/2024

jai/mvs.

Index: Yes/No

Neutral Citation: Yes/No

To

The District Collector (PD Section)
Salem District
Salem.



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Dr.D.NAGARJUN,J
jai/mvs.

Pre-delivery order made in
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