



W.P.No.24662 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 12.12.2023

Pronounced on : 06.06.2024

C O R A M

The Hon'ble Dr.Justice D.NAGARJUN

W.P.No.24662 of 2015

1. M.Selvaraju (Deceased)
2. S.Devasena
3. Sarasu
4. Thenmozhi
5. Elamparathi

...Petitioners

Vs

1. Secretary to the Government,
Rural development and Panchayat Raj Department,
Fort St.George,
Chennai - 600 009
2. The Director,
Rural Development and Panchayat raj,
Saidapet,
Chennai - 600 050
3. The District Collector,
Krishnagiri District,
Krishnagiri.
4. The Chairman,
Tamil Nadu Public Service Commission,
Chennai.

...Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of mandamus directing the fourth respondent to issue concurrence for absorption of the petitioner to the post of Junior Assistant in the Rural Development and Panchayat Raj Department, Krishnagiri District and consequently direct the third respondent to promote the petitioner to the post of Assistant from the date on which he was eligible by counting his service in Dharmapuri District Development Corporation along with all attended benefit.

For petitioner	:	Mr.Sudharshana Sunder
For R1-R3	:	Mr.R.U.Dinesh Rajkumar
For R4	:	Mr.R.Bharanidharan

ORDER

This writ petition has been filed to direct the fourth respondent to issue concurrence for absorption of the petitioner to the post of Junior Assistant in the Rural Development and Panchayat Raj Department, Krishnagiri District and also direct the third respondent to promote the petitioner to the post of Assistant from the date on which he was eligible by counting his service in Dharmapuri District Development Corporation along with all attended benefit.

2. The facts in brief as per the affidavit as stated in the



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affidavit are as follows:

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2.1. The petitioner was appointed as Junior Assistant in the Dharmapuri district Corporation on 08.04.1982 *vide* proceedings No.2237/82 (A5) He has completed his probation on 28.04.1984 and his services were regularized as per letter No.2896/95/A3 dated 10.06.1998 w.e.f. 19.04.1982 , i.e., date of joining. As per G.O.MS.No.14 Rural Development Department dated 21.01.2000, the Dharmapuri District Development Corporation was winded and as per G.O.No.61 dated 06.06.2012, the Government ordered winding up of Dharmapuri District Economic Development Society and ordered the engineering and administrative staff to be transferred to the vacant posts in Rural Development and Panchayat Raj Department. Accordingly, the District Collector, Dharmapuri was directed to absorb the staff in the Rural Development Department.

2.2. Subsequently, the Dharmapuri district was bifurcated into Dharmapuri and Krishnagiri districts by way of proceedings dated 30.04.2004 and appointed the petitioner as Junior Assistant in Krishnagiri district in the Rural Development Department. The petitioner has passed all the tests and he



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was fit for promotion to the post of Assistant. However, his name was not found in the list of persons fit for promotion to the post of Assistant since he was not absorbed and his appointment was not regularized. But other persons including Drivers have been absorbed. The petitioner's services were not regularized for want of concurrence from the fourth respondent Tamil Nadu Public Service Commission (in short 'TNPSC'). The petitioner's juniors were promoted and working as Deputy BDOs. The petitioner in the post of Junior Assistant has received selection grade on completion of 10 years and special grade after completion of 20 years. The petitioner could not be absorbed and regularized on account of not giving concurrence by the fourth respondent TNPSC. The petitioner has made several representations but no response.

2.3. On 10.10.2013, the first respondent directed the second respondent to get necessary concurrence from the fourth respondent for absorption of the petitioner. Despite the said letter, no action was taken and therefore, the petitioner has filed writ of mandamus seeking for a relief as stated in the opening paragraph.

3. The petitioner retired from service on attaining the age of superannuation. On account of the death of the petitioner, his legal heirs were



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brought on record and were impleaded as petitioners 2 to 6.

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4. Counter affidavit has been filed by the third respondent the District Collector, Krishnagiri stating that the petitioner was working in the Rural Development Department on deputation basis at Krishnagiri. Among many staff, Drivers, Office Assistants and Night Watchman were ordered to be absorbed in the Rural Development and Panchayat Raj Department, as per G.O.Ms.No.57, Rural Development and Panchayat Raj Department dated 20.06.2013. However, no orders were have been passed to absorb the remaining staff *viz.*, Assistant Executive Engineer, Assistant Engineer, Junior Assistant and Typists etc. The Principal Secretary to the Government, Rural Development and Panchayat Raj Department, Chennai has addressed a letter dated 10.10.2013 to the Secretary TNPSC, Chennai, requesting to obtain necessary concurrence of TNPSC for absorption of staff of erstwhile Dharmapuri District Development Corporation, Dharmapuri and now working in Rural Development and Panchayat Raj Development.

5. The post of Junior Assistant, which the petitioner holds comes under the purview of the Tamil Nadu Public Service Commission and



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the said post is governed by the Tamil Nadu State and Subordinate Service Rules as well as the Ministerial Service Rules and therefore, it is necessary to obtain the concurrence of the Tamil Nadu Public Service Commission (TNPSC) and hence, the first petitioner (deceased) cannot be absorbed.

6. Heard both sides and perused the materials available on record.

7. The first petitioner was originally appointed as a Junior Assistant in the Dharamapuri District Development Corporation Ltd., in the year 1982 and worked in the post of Junior Assistant until his retirement on attaining the age of superannuation. He has worked for more than 20 years in the same post. The officers and the staff members who are expected to handle the file related to the first petitioner in TNPSC must have got many promotions during this point of time. The requirement of TNPSC to give concurrence for absorption of staff members in certain cadres is really creating lot of administrative inconvenience in the state. The officers and staff of TNPSC must act very diligently without any delay and latches and see that their concurrence is given. Unfortunately, in the case on hand, though a letter dated 10.10.2013 was addressed by the first respondent the same was not considered



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by the TNPSC. The petitioner had to work more than 20 years in the same cadre and had received selection grade and special grade in the post of Junior Assistant. The first petitioner's juniors got promotion and they were working as Deputy BDOs. It is further pathetic to know that the first petitioner died after retirement and his legal representatives were brought on record. The first petitioner has suffered on account of the delay caused by TNPSC. There is no reasons explained at any point of time during these years from 2013 till date as to why concurrence was not given. The TNPSC should have replied to the Department suitably in respect of concurrence for the first petitioner.

8. In view of the above, this writ petition is allowed. The fourth respondent TNPSC is directed to decide on the concurrence of the first petitioner as requested by the Secretary, Rural Development and Panchayat Raj Department as per letter dated 10.10.2013 as quickly as possible not later than four weeks from the date of receipt of a copy of this order. In this case, if consent is given within the time stipulated by this Court, the respondents one to three are directed to re fix the salary of the first petitioner and provide consequential benefits within a period of four weeks thereafter. No costs.

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Index : Yes/No
Internet : Yes/No
Citation : Yes/No

To

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4. Chairman,
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Dr.D.NAGARJUN,J.

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Pre-Delivery order made in
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