



WEB COPY



W.P.No.32659 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.32659 of 2012

R.Muthukrishnan

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by its Secretary,
Rural Development and Panchayat Raj Department,
Fort St.George,
Chennai – 600 009.

2.The Commissioner of Rural Development
and Panchayatraj,
Panagal Building,
Saidapet, Chennai – 600 015.

3.The District Collector,
Nagapattinam District,
Nagapattinam.

... Respondents

Prayer : Writ Petition has been filed under Article 226 of Constitution of India praying to call for the entire records culminated in issuing the Letter No.19088/E5/2012-1 dated 13.09.2012 of the first respondent, set aside the same and consequently direct the respondents to appoint the petitioner to the post of Assistant by recruitment by transfer of service from Panchayat Service to Ministerial service so as to enable the petitioner to get promotion



W.P.No.32659 of 2012

as Deputy Block Development Officer like similarly situated persons who were recruited as such by issuing G.O.3(D) No.43, Rural Development and Panchayat Raj Department dated 09.12.2011.

For Petitioner : Mr.S.Mani

For Respondents : Mr.T.Cheziyan,
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner to call for the entire records culminated in issuing the Letter No.19088/E5/2012-1 dated 13.09.2012 of the first respondent, set aside the same and consequently direct the respondents to appoint the petitioner to the post of Assistant by recruitment by transfer of service from Panchayat Service to Ministerial service so as to enable the petitioner to get promotion as Deputy Block Development Officer like similarly situated persons who were recruited as such by issuing G.O.3(D) No.43, Rural Development and Panchayat Raj Department dated 09.12.2011.

2. Learned counsel for the petitioner submitted that the petitioner was



appointed as Electrician on 02.01.1989 in the office of the erstwhile Divisional Development Office, which was subsequently abolished in the year 1995. On such abolition, the petitioner was absorbed as Skilled Assistant in the Panchayat Union Office in the year 1995 and now working as Selection Grade Skilled Assistant. As far as the post of Skilled Assistant is concerned, it is coming under the Panchayat service and there is no regulation governing the same. After retirement of the present incumbent i.e., the petitioner, the post get automatically lapsed. Moreover, till his retirement, the petitioner has to work in the same category without any promotional avenue. The post of Skilled Assistant is a technical field, if the petitioner is absorbed as Assistant in the Ministerial service, which is a non-technical field, the petitioner will be able to get promotional opportunities as Deputy Block Development Officer, Block Development Officer befitting to his qualification, seniority and experience.

3. Learned counsel for the petitioner submitted that the petitioner is fully qualified for holding the post of Deputy Block Development Officer as he has passed all the departmental tests like Panchayat Development



Department Paper-I, Manual of Village level workers – Community Development Manual Part-I and a Guide to Community Development and Panchayat Development Department -Paper-IV in the year 2001 itself and also passed the Panchayat Development Accent Test during December 2001. Further, the petitioner had completed I.T.I trade in Electrician including Apprentice Training and Diploma in Electrical and Electronic in the year 2001. He has also completed Master of Arts (First Class) and also pursuing Diploma in Civil Engineering after obtaining permission from the competent authority. Therefore, based on his qualification and past experience, the petitioner has submitted a representation to the respondents, seeking to appoint him as Assistant by transfer of service from Panchayat Service to Ministerial service so as to enable him to get further promotion, but the same was not considered.

4. Learned counsel for the petitioner further submitted that there were 62 persons employed as Technical Assistant (Television, Radio Supervisors, mechanic) under the Radio and Television Organisation Scheme proposed by the Government. Subsequently, the scheme was disbanded on 30.08.2000



and those persons have filed writ petition before this Court in W.P.No.1054 to 1057 of 2009 to direct the respondents therein to absorb them in the Rural Development Department, according to their qualification. Subsequent to the said writ petition, this Court vide order dated 17.03.2011 issued a direction and based on such direction, those petitioners have been given appointment as Deputy Block Development Officer as well as Assistants by the Government by issuing G.O.(3D)No.43, Rural Development Department dated 09.12.2011 on the basis of continuity of their service after disbanding the scheme from 2000 to till the date of absorption in the Rural Development Department. Even those person, who were not possessing the requisite qualification were given relaxation by the Government.

5. Learned counsel for the petitioner would further submit that the petitioner joined as Electrician on 02.01.1989 and after abolition of the erstwhile Divisional Development Office, he was working as Electrician in the Panchayat Union Office. The post of Electrician was subsequently re-designated as Skilled Assistant. In the cadre of Skilled Assistant, the petitioner was conferred with selection grade. However, till his retirement,



the petitioner has to continue in the same post without there being any promotional avenue. Therefore, he submitted a representation on 13.01.2012 to the respondents praying to appoint him as Assistant in the Ministerial service so that he will have promotional opportunities, however, the same was not considered by the respondents.

6. Learned counsel for the petitioner would further contended that there are several persons appointed by recruitment by transfer in the Government Departments. In his representation dated 13.01.2012, the petitioner had specifically pointed out the names of those persons, who were recruited by transfer from one department to the other department and sought for extension of similar benefit to the petitioner, but there was no resemblance of consideration. Therefore, the petitioner has filed W.P.No.9040 of 2012 before this Court and this Court by its order dated 12.04.2012, issued a direction to the first respondent to consider his representation dated 13.01.2012 and pass order within three months. Based on such direction, the first respondent passed the impugned order in Letter



No.190888/E5/2012-1 dated 13.09.2012, rejecting his claim for appointment by recruitment by transfer. Challenging the same, the petitioner has come forward with the present writ petition.

7. The counter affidavit is also filed by the third respondent on 07.06.2016. For better appreciation, the relevant paragraphs are extracted hereunder:

“5. Regarding the averments in para 4 of the affidavit of the petitioner, it is submitted that his educational qualification is not disputed. It is however submitted that there is no provision in the Tamil Nadu Ministerial service Rule for promotion as Assistant from the category of Electrician. The feeder category for promotion as Assistant is only Junior Assistant, Typist, subject to their other qualification as prescribed under the Tamil Nadu Ministerial Services Rules. As there is no provision under the existing rules governing the promotion as Assistant in the Rural Development department, the petitioner’s request for promotion Assistant deserves no consideration”.

8. Learned Additional Government Pleader appearing for the respondents submitted that the Tamil Nadu Local Administration Radio and Television Maintenance organization under the control of the Rural



W.P.No.32659 of 2012

Development Department has been disbanded in G.O.Ms.No.229/RD/Dept.,/

dated 30.08.2000 and the staff of the defunct organization was allowed to get their salary and allowances and other benefits continuously till they were absorbed in some other post with pay protection and till the issue of necessary Government order. In a similar type of case filed by M.Lakshmi, S.Sivigami, N.Sivaprakasam and T.Kaliyarajan in W.P.No.1054 to 1057 of 2009, the petitioners prayed the first respondent to absorb the petitioners as Assistants with retrospective effect from 30.08.2000 and grant all benefits from the date of dissolving the Tamil Nadu Local Administration Radio and Television Maintenance Organisation. This Court by order dated 17.03.2011 delivered a common order in the W.P.Nos.1054 to 1057 of 2009 directing the first respondent to consider all the aspects in the light of G.O.Ms.No.229, Rural Development (E4) Department, dated 30.08.2000 taking note of the services rendered by the petitioners all these years and pass necessary orders before the end of July 2011.

9. Learned Additional Government Pleader appearing for the respondents would further submit that the petitioner has been absorbed in the



W.P.No.32659 of 2012

office of the Block Development Office in the Rural Development, as Skilled Assistant and the petitioner was also awarded Selection Grade in the post of Skilled Assistant on completion of 10 years of service. It is submitted that the petitioner is working as 'Selection Grade Skilled Assistant' and therefore his case cannot be considered for appointment as Assistant. Thereafter, the petitioner has approached this Court by way of filing writ petition in W.P.No.9020 of 2012 and this Court passed an order on 12.04.2012 directing the first respondent to consider the representation dated 13.01.2012, seeking appointment as Assistant in the Rural Development Department and also grant a pay scale on par with Skilled Assistant Grade-1 and pursuant to the order passed by this Court, since there is no provision for absorbing the petitioner directly as Assistant in the Tamil Nadu Ministerial Service Rules, his request has not been complied with. Accordingly, his representation dated 13.01.2012 was rejected by the first respondent.

10. Learned Additional Government Pleader appearing for the respondent also submitted a written instruction from the District Collector, Nagapattinam vide Na.Ka.No.369/2012/UV2 dated 28.10.2022, wherein it is



W.P.No.32659 of 2012

stated that the salary of the Electrician is lesser than the salary of the Assistant and moreover, the petitioner cannot be absorbed as Assistant in view of the letter of the Principle Secretary, Rural Development Department in Na.Ka.No.19088/E5/2012-I dated 13.09.2012 and the petitioner will be attaining the age of superannuation on 30.06.2024.

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

12. In this case, the petitioner was seeking transfer from Panchayat service to Ministerial Service, so that he will have terminal benefits otherwise, if he remains in the same Panchayat service, he has to retire only as Skilled Assistant without any terminal benefits. Therefore, he has submitted a representation dated 13.01.2012 before the first respondent, seeking to appoint him as Assistant in the Ministerial service, so that the petitioner will get promotion. The said representation was rejected by the first respondent vide order dated 13.09.2012 stating that there is no provision for absorbing the petitioner directly as Assistant from Skilled Assistant in the



W.P.No.32659 of 2012

Tamil Nadu Ministerial Service Rules. Hence, his request cannot be considered. In the absence of the provision under the existing rules in the Tamil Nadu Ministerial Service Rules for promotion as Assistant from the category of electrician and further the feeder category for promotion as Assistant is only Junior Assistant, Typist subject to their qualification as prescribed under the Tamil Nadu Ministerial Service Rules, the representation of the petitioner dated 13.01.2012, requesting for promotion as Assistant was rightly rejected by the first respondent vide impugned order dated 13.09.2012.

13. In view of the above factual matrix of the case, this Court is of the considered view that the impugned order passed by the first respondent in letter No.19088/E5/2012 dated 13.09.2012 does not warrant any interference by this Court and the same is hereby confirmed.

14. In the result, this writ petition stands dismissed. No costs.



W.P.No.32659 of 2012

12.02.2024

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Index : Yes/No

Speaking Order : Yes/No

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WEB COPY



W.P.No.32659 of 2012

J.SATHYA NARAYANA PRASAD,J.

vm

W.P.No.32659 of 2012

12.02.2024

Page No.13 of 13