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W.P. No.5903 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.5903 of 2018
and
W.M.P.No.7263 of 2018

T.Kaliarajan

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development Department
Fort St. George,
Chennai – 600 009.
- 2.The Commissioner of Rural Development
& Panchayat Raj,
Panagal Building, Saidapet,
Chennai – 600 015.
- 3.The District Collector (PD) Section,
Nagapattinam District,
Nagapattinam.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent pertaining to proceedings vide in Letter No.22634/E4/2016-3 dated 19.12.2016 and confirmed by proceedings in Letter No.8498/E6(1)/2017-2 dated 05.07.2017 and quash the same and consequently direct the respondents herein to absorb the services of the



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petitioner in the cadre of Assistant with effect from the date of initial appointment as Assistant on 01.05.2001 with all consequential monetary and attendant benefits, instead of 09.12.2011 as fixed by G.O.(3D) NO.43, Rural Development and Panchayat Raj dated 09.12.2011.

For Petitioner : Mr.V.Stalin for
M/s.Row and Reddy

For Respondents : M/s.E.Ranganayagi
Additional Government Pleader.

ORDER

The petitioner herein was initially appointed as a Radio Supervisor pursuant to the selection made by TNPSC on 07.11.1997 and subsequently pursuant to Policy decision taken by the Government, the Secretary to the Government, Rural Development by an order dated 10.07.2000, communicated to the Director of Rural Development for disbandment of the Organisation and redeployment of the existing staff working as Radio Supervisors as Assistants in the Rural Development Department and for their absorption in the said Department. Accordingly, the petitioner has joined the Rural Development Department as Assistant on 01.05.2001 and has been working as such.

2. However, the services of the petitioner were absorbed by issuing G.O.(3D) No.43, Rural Development and Panchayat Raj dated 09.12.2011



only from the date of issue of the said Government order dated 09.12.2011.

Aggrieved by the same, the petitioner made a claim for absorbtion of his services from the date on which he joined Rural Development in the cadre of Assistant. The said claim was rejected by the 1st respondent through impugned proceedings dated 19.12.2016 and the same view was once again confirmed through an order dated 05.07.2017 passed by the 1st respondent. Aggrieved by the said proceedings, the petitioner approached this Court by filing the present writ petition.

3. On an earlier occasion i.e., on 03.04.2024, when the matter was taken up for consideration, it was brought to the notice of this Court that the issue involved in this writ petition i.e., the request of the person like the petitioner for absorbtion from the date on which he joined in the Rural Development Department as Assistant was already considered by the learned Division Bench of this Court in W.A.No.988 of 2018 and batch and the learned Division Bench, by an order dated 02.04.2019 directed for absorbtion of the services from the date on which the Radio Supervisor joined as Assistant in the Rural Development Department.



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4. In the light of the same, the matter was adjourned at the request of the learned Additional Government Pleader to ascertain whether the said order in W.A.No.988 of 2018 has become final or not. Today, when the matter is taken up for consideration, it is brought to the notice of this Court that the State has already preferred Special Leave Petition against the order dated 02.04.2019 passed in W.A.No.988 of 2018 and batch and the same is pending. However, there is no stay granted by the Hon'ble Apex Court against the order in W.A.No.988 of 2018 and batch. The learned Division Bench, in its order dated 02.04.2019 considered the very same issue and held as under:

“7. It is not in dispute that the Petitioners who were working as Radio Supervisors in the Tamil Nadu Local Administration Radio and Television Maintenance Organization have been posted from 01.05.2001 onwards as Assistants in the Rural Development Department by the Government of Tamil Nadu pursuant to the decision to disband the said Organization where they were working and it was not on account of any option made by them in that regard. The Secretary to Government, Rural Development Department by letter No. 41040/E4/2000-7 dated 13.03.2001 while obtaining the views of the Tamil Nadu Public Service Commission, had stated as follows:-



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“3. The proposal to redeploy the staff of the disband TNLA Radio and TV Maintenance Organisation with the regular establishment of Panchayat Development Unit has been consulted with various service Associations including Tamil Nadu Rural Development Officials Association by DRD and the Secretary, RD Department, informally in various occasions though they are Associations. As the employees of the disbanded organization are proposed to be fitted as last man of the corresponding categories in the Panchayat Development Unit the seniority of the existing personnel may not be affected as contended. Also the number to be redeployed is negligible, it may not create any major impact in seniority level taking into consideration of staff strength of the Panchayat Development Unit.”

In response to the same, the Tamil Nadu Public Service Commission had also sent their concurrence for that proposal by letter No.5468/CD-B2/200 dated 06.07.2001.

8. The delay in issuing order for the absorption of the Petitioners in the post of Assistants in G.O. (3D) No.43, Rural Development and Panchayat Raj (E3) Department dated 09.12.2011, was not due to any fault of the Petitioners. Moreover, this Court has already made it clear that by merely fixing the seniority of the erstwhile Radio Supervisors in the post of Assistants in the Rural Development Department, they



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*cannot as a matter of right claim promotion to any higher post and they would have to be otherwise eligible and fulfill the norms laid down for the same. That being the factual position, it was unfair to have placed the Petitioners at the bottom of the seniority list in the post of Assistants as on 09.12.2011 and it is not explained as to how the persons recruited for the post of Assistants from 01.05.2001 could be aggrieved. Further, when some of the Radio Supervisors, similarly placed to the Petitioners, challenged their placement at the bottom of the seniority list as on 09.12.2011 in earlier Writ Petitions, this Court held the same to be invalid and directed their names should be placed in the seniority list as on the date on which they had joined in the post of Assistant on 01.05.2001, which has attained finality. We do not find any reason to differ from the consistent view taken by this Court in the matter. The Hon'ble Supreme Court of India in **State of Uttar Pradesh -vs- Arvind Kumar Srivastava [(2015) 1 SCC 347]** has reiterated that when a particular set of employees have been given a relief by the Court, all other identically situated employees should be treated alike by extending that benefit and not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India.*

9. We also find that despite repeated order passed by this Court granting relief to the similarly placed persons, the



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Respondent have not issued orders fixing their seniority in the post of Assistants as directed in those orders. Hence, we are constrained to direct the Secretary to Government, Rural Development Department, Government of Tamil Nadu to file a report of compliance by 30.06.2019 before the Registrar (Judicial) of this Court, showing the fixation of seniority of the Petitioners and other similarly placed persons, who were earlier working as Radio Supervisors in the post of Assistants in the Rural Development Department without fail.”

5. Thus, the issue involved in this writ petition is squarely covered by an order already passed by the learned Division Bench under similar of fact situation and it is further noticed that, the learned Division Bench has also directed the respondent State to implement and extend the same benefit to all similarly situated employees and to file the compliance report. But as on date, it appears that the same was not complied with by the respondents.

6. Though the Hon'ble Apex Court has not granted any stay of operation of the order passed by the learned Division Bench, in a way the action of the respondents would amount to contempt of the order passed by the learned Division Bench. Be that as it may, in view of the fact that the issue involved in the writ petition is squarely covered by an order passed by



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the learned Division Bench, as evident from the paragraphs 7, 8 and 9 of the order passed by the learned Division Bench as extracted above, this Court does not intend to re-adjudicate the matter afresh on merits.

7. Accordingly following the order passed by the learned Division Bench noted above, the impugned order is set aside and writ petition is allowed directing the respondents to absorb the services of the petitioner from the date on which he joined in the post of Assistant in the Rural Development Department and take all consequential steps to release all the benefits, if any payable to the petitioner consequent upon the absorption of services of the petitioner with effect from the date on which he joined as Assistant in the Rural Development Department. The Respondents are directed to comply with this order as expeditiously as possible at any rate within a period of three (3) months from the date of receipt of a copy of this order.

8. Consequently, the miscellaneous applications, if any, shall stand closed. No costs.

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Speaking Order : Yes/No

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To:

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