



WEB COPY



W.P.No.19194 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2024

CORAM:

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

W.P.No.19194 of 2022 and
WMP.No.18496 of 2022

P.Murugan

... Petitioner

Vs.

1.The Government of Tamilnadu,
Represented by its Principal Secretary,
Commissioner of Revenue Administration,
Secretariat, Chennai

2.The District Collector,
Salem District,
Salem

3.The Revenue Divisional Officer,
Sankari,
Salem District

... Respondents

PRAYER:

Writ petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call the records pertaining to the impugned order passed by the second respondent vide his proceedings Na.Ka.No.26953 of 2021/A4 dated 31.03.2022 and to quash the same and consequently, direct the respondents 1 to 3 to revise the petitioner service as Junior Assistant from the date of his initial appointment on 17.10.2018 and to



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provide subsequent promotion with all service and monetary benefits more particularly within a time frame as may be stipulated by this Court.

For Petitioner : Mr.K.V.Muthu Visakan

For Respondents : Mr.S.Arumugam,
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 31.03.2022 thereby refused to revise the petitioner's service as Junior Assistant from the date of his initial appointment.

2. Heard, the learned counsel appearing on either side.

3. The petitioner was appointed as Record Clerk on compassionate ground. His father was employed as Village Assistant and while he was in service, he died on 09.06.2001. Immediately after his demise, his mother made representation on 01.07.2013 to provide employment to the petitioner. However, the petitioner was appointed as Record Clerk only with effect from 17.10.2018. His service was regularised by an order dated 13.11.2019. He completed his probation with effect from 16.10.2020. At the time of his appointment, he had completed SSLC and eligible for the post of Junior



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Assistant. Though there were vacancies available for the post of Junior Assistant, he was appointed as Record Clerk by the second respondent for qualification of VIII standard. As per GO.Ms.No.1499 (Labour and Employment Department) dated 03.08.1989, the appointing authorities under no circumstances should appoint a dependent to a lower post when the dependent possess the qualifications required for the post of Junior Assistant / Typist on the ground of non availability of vacancy in the office or department or the dependents not willing to work in other departments. In such circumstances, they should follow the existing procedure of approaching the collector of district for providing a suitable vacancy. Therefore, he made representation to revise his service as Junior Assistant from the date of his initial appointment i.e. on 17.10.2018. However, it was rejected on the ground that the compassionate appointment shall be made within a period of three years from the date of death of the Government servant. Therefore, on the date of application whatever the qualification obtained by the applicant, in accordance with the said qualification, compassionate appointment will be given.

4. On perusal of the counter filed by the second respondent revealed



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that the petitioner did not complete 10th standard on the date of application on 01.07.2003. Therefore, he has been appointed as Record Clerk on 01.10.2018 based on the qualification on the date of application as per the instructions given in GO.Ms.No.560 Labour and Employment dated 03.08.1977. In the same circumstances, the Madurai Bench of this Court passed an order in WP.(MD)No.69 of 2010 and WP.(MD)No.1685 of 2010 and ordered to treat the initial date of appointment of the petitioner therein as Junior Assistant with consequential relief. It was challenged in writ appeal No.WA.(MD)No.908 of 2010 and WA.(MD).No.641 of 2010 and both the writ appeals were disposed of as 'without backwages'.

5. In view of the above, the impugned order is liable to be quashed. Accordingly, the impugned order passed by the second respondent vide his proceedings Na.Ka.No.26953 of 2021/A4 dated 31.03.2022 is quashed and this writ petition is allowed. The respondents are directed to revise the petitioner's service as Junior Assistant from the date of his initial appointment on 17.10.2018 with all service attendant benefits without any backwages, within a period of twelve weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.



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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.Principal Secretary,
The Government of Tamilnadu,
Commissioner of Revenue Administration,
Secretariat, Chennai
- 2.The District Collector,
Salem District,
Salem
- 3.The Revenue Divisional Officer,
Sankari,
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