



W.P.No.1562 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.1562 of 2017
and W.M.P.No.1489 of 2017

K.V.Surendran

... Petitioner

Vs

- 1.State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
fort St.George, Chennai – 9.
 - 2.Director,
Commissionerate of Rural Development and Panchayat Raj,
Panaal Building, Chennai – 15.
 - 3.District Collector,
Madurai District,
Madurai.
- ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the entire records relating to G.O.(D).No.361, Rural Development and Panchayat Raj (E-1) department dated 16.08.2016 on the file of the 1st

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respondent herein and quash the same and consequently direct the 1st respondent herein to promote the petitioner herein notionally as Assistant Director on par with his juniors and fix his last drawn pay in the post of Assistant Director and sanction difference in salary, arrears of pension and all other consequential monetary benefits in accordance with law and to pass further orders.

For Petitioner : Mr.V.R.Rajasekaran

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.M.Murali
Government Advocate

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in G.O.(D).No.361, Rural Development and Panchayat Raj (E-1) department dated 16.08.2016 and sought for a consequential direction to the first respondent herein to promote the petitioner notionally as an Assistant Director on par with his juniors and fix his last drawn pay in the post of Assistant Director and sanction the difference in salary, arrears of pension and all other consequential

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monetary benefits.

2. Heard Mr.V.R.Rajasekaran, learned counsel for the petitioner and Mr.R.Neelakandan, learned Additional Advocate General assisted by Mr.M.Murali, learned Government Advocate appearing on behalf of the respondents.

3. The petitioner herein was initially appointed as a Rural Welfare Officer Grade – I and further promoted as Assistant Officer on 11.08.1987 and finally promoted to the post of Deputy Block Development Officer on 24.03.2003 and thereafter, the petitioner retired from service on attaining the age of superannuation on 30.06.2003 in the post of Deputy Block Development Officer. Subsequently, pursuant to the order passed by the Division Bench of this Court in W.P.Nos. 19960 to 19962 of 1998 etc., dated 19.04.2005 revising the seniority of the petitioner for the cadre of Rural Welfare Officer Grade – II in the Officer cadre in ROC.No.57589/2010-2/RD3,

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dated 30.03.2012 taking into account as his date of joining as Village Level Welfare Worker in the Agricultural Department. Consequently, his seniority has been revised in the cadre of Assistant to Block Development Officer through proceedings dated 30.03.2012 and he was also granted further notional promotion from the cadre of Assistant to Block Development Officer on par with his junior that is to the post of Rural Welfare Officer Grade – I, Extension Officer, Deputy Block Development Officer and Block Development Officer with effect from 01.03.1985, 01.09.1991, 13.11.1996 and 23.01.1998 respectively. However, his case was not considered for further notional promotion to the post of Assistant Director and hence, the petitioner had approached this Court by filing a Writ Petition in W.P.No.28543 of 2015 and this Court by its order dated 10.09.2015, directed the first respondent herein to forthwith promote the petitioner notionally as Assistant Director on par with his junior. Pursuant to the said order, the claim of the petitioner was considered by the respondents and the same was rejected by passing the impugned order in G.O.(D).No.361, Rural Development

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and Panchayat Raj (E-1) Department, dated 16.08.2016 on the ground that the notional promotion granted in favour of the petitioner itself is void for want of satisfying the service qualification prescribed for promotion to the respective post and also on the ground that the petitioner has not actually worked in the post of Block Development Officer and therefore, he has not satisfied the service qualification as prescribed, to consider his case for promotion to the post of Assistant Director.

4. It is not in dispute that pursuant to the order passed by the Division Bench of this court in W.P.Nos. 19960 to 19962 of 1998 etc., dated 19.04.2005, that is after the retirement of the petitioner from his services, the seniority of the petitioner was revised by the respondents and he was granted notional promotion as stated above to the post of Block Development Officer. Once the case of the petitioner was considered pursuant to the order passed by the Division Bench of this Court and he was promoted notionally to the post of Block

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Development Officer, it is not open to the respondent to insist that he should have worked in the respective post for further notional promotion to the post of Assistant Director. The notional promotion that was granted in favour of the petitioner upto Block Development Officer has become final and the same is not in dispute.

5. Be that as it may, if once the benefit of notional promotion that was granted in favour of the petitioner to the post of Block Development Officer with effect from 23.01.1998 pursuant to the order passed by the Division Bench of this Court, it cannot be denied for consideration of the case of the petitioner for notional promotion given to the post of Assistant Director. Hence, the benefit of notional promotion given to the petitioner with effect from 23.01.1998 as Block Development Officer is bound to be treated as service rendered by the petitioner in the said post and the case of the petitioner is required to be considered for further promotion on par with his junior. Hence, the ground on which the claim of the petitioner is rejected by the

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respondent by passing the impugned order dated 16.08.2016 is wholly unsustainable and accordingly the same is liable to be set aside.

6. Accordingly, the impugned order is hereby set aside and the matter is remitted back to the first respondent to reconsider the case of the petitioner for notional promotion to the post of Assistant Director on par with his junior without insisting the service qualification in the post of Block Development Officer by considering the period of notional promotion given to the petitioner as Block Development Officer and pass appropriate order as expeditiously as possible and fix his last drawn pay in the post of Assistant Director and sanction the difference in salary, arrears of pension and all other consequential monetary benefits within a period of two (2) months from the date of receipt of a copy of this order.

7. This Writ Petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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gba

Index : Yes/No
Speaking order : Yes/No
Neutral Citations : Yes/No

To

1.Principal Secretary to Government,
for The State of Tamil Nadu,
Rural Development and Panchayat Raj Department,
fort St.George, Chennai – 9.

2.Director,
Commissionerate of Rural Development
and Panchayat Raj,
Panagal Building, Chennai – 15.

3.District Collector,
Madurai District,
Madurai.

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MUMMINENI SUDHEER KUMAR,J.

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