



W.A(MD)No.1074 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.1074 of 2024
and
C.M.P(MD)No.8061 of 2024**

- 1.The Additional Chief Secretary/
Commissioner of Revenue Administration,
Chepauk,
Chennai – 5.
 - 2.The District Collector,
District Collector's Office,
Sivagangai.
 - 3.The District Revenue Officer,
Sivagangai District.
- ... Appellants/Respondents

vs.

A.P.Parthiban ... Respondent/Writ Petitioner

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 30.01.2023 made in W.P(MD)No.16747 of 2019.



W.A(MD)No.1074 of 2024

WEB COPY

For Appellants

: Mr.N.Satheesh Kumar
Additional Government Pleader

For Respondent

: Mr.S.Viyayakumar
Senior Counsel
for Mr.M.Kumar

JUDGMENT

[Judgment of the Court was made by R.SURESH KUMAR, J.)

This Writ Appeal has been directed against the order passed by the Writ Court, dated 30.01.2023 made in W.P(MD)No.16747 of 2019.

2.That the respondent/A.P.Parthiban was selected and appointed as Typist on 10.07.2009 and he completed his probation on 01.03.2012. After successful completion of probation, he becomes eligible to be sent for one year Junior Assistant training immediately. In a normal course, within a maximum period of one month, such kind of training would be given to those who have successfully completed the probation.



W.A(MD)No.1074 of 2024

WEB COPY

3.In respect of another candidate, by name, M.Uma Meenakshi, whose service particulars have been compared even by the appellant Department, both the respondent/writ petitioner and the said M.Uma Meenakshi, entered into service as Typist on 11.09.2009, their services were regularized with effect from 11.09.2009, she completed the probation on 10.12.2011, whereas, the respondent-A.P.Parthiban completed on 01.03.2012. The said M.Uma Meenakshi, immediately within 21 days, had been sent for one year Junior Assistant training with effect from 01.01.2012. However, insofar as the respondent-A.P.Parthiban is concerned, though he had become eligible to be sent for the training as he has completed the probation on 01.03.2012, he was sent only with effect from 01.11.2012 ie., after 8 months. Such a delay of 8 months in sending the respondent/writ petitioner for the Junior Assistant training of one year cannot be attributable to the respondent employee.

4.Because of the belated action on the part of the employer to send him for one year Junior Assistant training, his subsequent promotion to the post of Assistant had been delayed for one year, where instead of in the year 2012, he had been given promotion only in the year 2014 by inducting



W.A(MD)No.1074 of 2024

WEB COPY his name in the panel fit for promotion to the post of Assistant by taking the crucial date as 15.03.2014 instead of 15.03.2012.

5.Ultimately the said delay caused, there will be a further delay in the next promotion to the post of Deputy Tahsildar, therefore, fixing the proper seniority and giving him promotion by taking the crucial date as 15.03.2012 to the post of Assistant and a consequential promotion to the post of Deputy Tahsildar, the respondent/writ petitioner had approached the appellant Department with a representation, which was negated by the appellant Department by proceedings, dated 24.10.2018 which was impugned before the Writ Court.

6.The learned Judge, who heard the said Writ Petition, was pleased to allow the said Writ Petition by citing the reason that the delay in sending the respondent/writ petitioner for one year Junior Assistant training is not because of the employee but because of the belated action on the part of the employer.

7.In this regard, it is a well settled principle that insofar as the service qualification is concerned, if it is delayed because the employer sent



W.A(MD)No.1074 of 2024

WEB COPY

for such training of the employees belatedly, such kind of delay cannot be attributable on the employee and that too, disadvantageous to the service benefits of the employee.

8.Drawing an analogy from the said principle, the learned Judge has considered the said Writ Petition with the factual matrix as has been quoted herein above and ultimately decided the said Writ Petition by allowing the same through the impugned order.

9.Assailing the same, though an attempt has been made by the learned Additional Government Pleader appearing for the appellants that the said M.Uma Meenakshi has successfully completed the probation on 10.12.2011 whereas, belatedly on 01.03.2012 alone, this respondent writ petitioner had completed the probation, therefore sending him for one year Junior Assistant training also correspondingly has got delayed. Therefore, such a delay is also to be equally attributable on the part of the respondent employee, he has contended. He would also submit that if at all he has a grievance with regard to the sending of the training belatedly followed by the consideration of his promotion to the post of Assistant in the year 2014, immediately he would have agitated the same. However, he has not



W.A(MD)No.1074 of 2024

WEB COPY

agitated the same and belatedly, only at the next promotion to the post of Deputy Tahsildar, he had come forward to make a representation. Therefore, that is also a belated one. For that reason also it was negated, the learned Additional Government Pleader would contend.

10.We have heard Mr.S.Vijaya Kumar, learned senior counsel appearing for the respondent/writ petitioner, assisted by Mr.M.Kumar, learned counsel.

11.As has been discussed herein above, insofar as the sending of the respondent/writ petitioner to the training of one year Junior Assistant has been delayed for 8 months from 01.03.2012 to 01.11.2012, for which, absolutely there has been no reason on the part of the appellant Department except to say that it is mere administrative delay.

12.Insofar as sending to the training of the employees are concerned, then and there whenever they become eligible, normally such kind of training would be given to those employees. Even for the administrative delay, if it is delayed, it may maximum be delayed for a few days ie., less than one month, that has happened in the case of other



W.A(MD)No.1074 of 2024

WEB COPY

candidates namely M.Uma Meenakshi, who also entered service along with the respondent/writ petitioner. In her case, it was a 21 days delay, whereas in the case of the respondent/writ petitioner, it was an 8 months delay, for which, absolutely there has been no explanation from the appellant Department except to state that there has been an administrative delay. Therefore, such kind of unwarranted delay, if it causes any prejudice to the service conditions of the employee, has to be set right by the employer. Therefore, to that extent, the reasoning given by the learned Judge and the conclusion reached by the writ Court cannot be found fault with.

13.However, it is made clear that since the petitioner has completed the probation only on 01.03.2012 and the said M.Uma Meenakshi already completed the probation on 10.12.2011 and she also has been since included in the panel fit for promotion with the crucial date as 15.03.2013, the respondent/writ petitioner cannot seek seniority marching over the said individual, as he has completed only on 01.03.2012, therefore, the next crucial date falling is 15.03.2013, that date he should be included in the panel. Accordingly, his seniority notionally be fixed and corresponding promotional and other service benefits be conferred on him.



W.A(MD)No.1074 of 2024

WEB COPY

14.With these clarifications, the Writ Appeal is partly allowed and other aspects of the order passed by the writ Court, which is impugned herein is approved. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.K.,J.] [G.A.M.,J.]
02.07.2024

NCC : Yes / No
Index : Yes / No
ps



WEB COPY



W.A(MD)No.1074 of 2024

To

- 1.The Additional Chief Secretary/
Commissioner of Revenue Administration,
Chepauk,
Chennai – 5.
- 2.The District Collector,
District Collector's Office,
Sivagangai.
- 3.The District Revenue Officer,
Sivagangai District.



WEB COPY



W.A(MD)No.1074 of 2024

R.SURESH KUMAR,J.
and
G.ARUL MURUGAN,J.

ps

ORDER MADE IN
W.A(MD)No.1074 of 2024

DATED : 02.07.2024

10/10