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W.A.(MD)NO. 2196 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R. POORNIMA

W.A.(MD)No.2196 of 2021 AND

C.M.P.(MD)No.10881 of 2021

1. The State of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai – 9.
 2. The Secretary to Government,
Personnel Administrative Reforms (M) Department,
Secretariat, Chennai – 9.
 3. The Director,
Rural Development and Panchayat Raj Department,
Panagal Maligai, Chennai – 9.
 4. The District Collector,
Madurai District,
Madurai.
 5. The Block Development Officer(Block Panchayat),
Madurai East Panchayat Union,
Madurai.
- ... Appellants/ Respondents

Vs.

R.Sankaranarayanan

... Respondent / Writ petitioner



Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the judgment dated 28.04.2021 in W.P.(MD)No.8558 of 2021 on the file of this Court.

For Appellant : Mr.M.Siddarthan,
Additional Government Pleader.

For Respondent : Mr.VR.Shanmuganathan

* * *

J U D G M E N T

(Judgment of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. The mother of the writ petitioner / respondent herein worked as Junior Assistant in Rural Development and Panchayat Raj Department. She passed away on 19.05.2000. The petitioner was appointed as Junior Assistant on compassionate ground on 14.03.2007. The petitioner had passed 8th standard and he had also cleared the pre-foundation course conducted by Madurai Kamaraj University. The Government of Tamil Nadu had issued G.O.Ms.No.528 Personnel & Administrative Reforms (PER.R) Department dated 18.04.1985 holding that the pre-foundation course is equivalent to SSLC.



3. The District Collector sent proposal for regularising the petitioner's service. Since it was kept pending for a very long time, the petitioner filed W.P.(MD)No.1250 of 2018. The said writ petition was allowed on 21.02.2018. Since positive direction was given for regularising the petitioner's service, the Government issued G.O.(3P) No.23 Rural Development and Panchayat Raj(E3) Department dated 09.04.2018 regularising the petitioner's service but adding a caveat that the petitioner will not be entitled to any promotion. Challenging the said G.O, the petitioner filed W.P.(MD)No.8558 of 2021. The said writ petition was allowed on 28.04.2021. Challenging the same, the Government filed this intra-court appeal.

4. The learned Additional Government Pleader appearing for the Government submitted that the order impugned in the writ appeal has to be set aside for more than one reason. He pointed out that the Government Order was issued way back in the year 2018. But the writ petition came to be filed only in the year 2021. According to the learned Additional Government Pleader, the learned Single Judge ought to have non-suited the petitioner on the sole ground of laches. He also pointed out that the essential qualification for holding the post of Junior Assistant



is pass in 10th standard. The petitioner has only cleared the pre-foundation course. Even though G.O.Ms.No.585 Rural Development & Local Administration Department dated 12.04.1984 had equated the pre-foundation course with SSLC, subsequent Government Orders issued by the Government are to the effect that the pre-foundation course cannot be considered as equivalent to SSLC. His core contention is that the regularisation order was passed in favour of the petitioner, Government Orders such as G.O.(Ms).No.107 Personnel and Administrative Reforms (M) Department dated 18.08.2009, G.O.(Ms).No.116 Personnel and Administrative Reforms (M) Department dated 18.08.2010 and the Government Letter No.33448/M/2010-4 dated 03.12.2010 were holding the field. He therefore submitted that the learned single Judge erred in allowing the writ petition.

5. Per contra, the learned counsel appearing for the writ petitioner submitted that the order impugned in the writ appeal is well reasoned and it does not warrant interference.

6. We carefully considered the rival contentions and went through the materials on record.



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7. As mentioned earlier, aggrieved by the non-consideration of the proposal for regularisation, the writ petitioner herein had filed W.P. (MD)No.1250 of 2018. The said writ petition was allowed on 21.02.2018 with a specific direction that the Government should regularise the writ petitioner's services with effect from 17.03.2007 and confer all the consequential benefits. This order has become final. It was not challenged by the Government. When this Court had specifically directed the Government to regularise the services of the writ petitioner and confer all consequential benefits, it is not open to the Government to deny the benefit of promotion to the petitioner. We would even go to the extent of remarking that the Government Order impugned in W.P. (MD)No.8558 of 2021 is contumacious as it breaches the direction given vide order dated 21.02.2018 in W.P.(MD)No.1250 of 2018.

8. That apart, the writ petitioner was appointed way back on 14.03.2007 when the Government Orders relied on by the learned Additional Government Pleader were not in the picture. Therefore, it would be inequitable to retrospectively apply G.O.(Ms).No.107 Personnel and Administrative Reforms (M) Department dated 18.08.2009 to the prejudice of the writ petitioner.



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9. The learned single Judge has given strong and convincing reasons for allowing the writ petition. Interference is not warranted. This writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (R. POORNIMA, J.)
21st November 2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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