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WP NO. 1096 of 2021
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

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THE HONOURABLE MRS JUSTICE N. MALA

WP NO. 1096 of 2021

P.Harikumar

..Petitioner

Vs

The District Collector
Tiruvannamalai District,
Tiruvannamalai

..Respondent

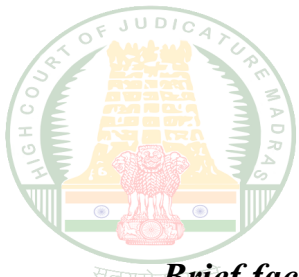
Prayer : Writ petition is filed under Article 226 of Constitution of India, praying for writ of mandamus, directing the respondent to retrospectively promote the petitioner as Deputy Block Development Officer based on his feeder category seniority viz., Assistant as fixed by the proceedings of the respondent dated 14.09.2020 with all notional benefits such as retrospective promotion, arrears of pay etc.,

For Petitioner: M/s.T.Hemalatha

For Respondent: Mr. E.P. Senniyangiri,GA

ORDER

Seeking directions to the respondents to grant retrospective promotion to the petitioner as Deputy Block Development Officer based on his feeder category seniority viz., Assistant with all notional benefits along with arrears, the present writ petition has been filed.



Brief facts:
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2. The petitioner was appointed on compassionate grounds as Junior Assistant, at Peramannalur Panchayat Union, on 06.07.2007, consequent to the death of his father, who died in harness on 22.08.2001. Though the petitioner was appointed in the year 2007, his services came to be regularised only in the year 2016, and his probation was declared in 2017, i.e., after a period of 10 years. The petitioner was promoted as Rural Welfare Officer Grade -I (in the cadre of Assistant) at Cheyyar Panchayat, on 22.11.2017. Even though, the petitioner came into the zone of consideration for promotion to the post of Deputy Block Development Officer, in the year 2020-21, his name was not included on the ground that 17(b) charge was pending, with reference to his participation in general strike and also on the ground that he did not acquire the service qualification as on 01.03.2000, of working for one year in the post of Assistant, as per G.O.Ms. No. 55, dated 26.05.2017.

3. It is the further case of the petitioner that the petitioner's name was not included in the panel drawn in the year 2015 and 2020, while his immediate junior was promoted as Deputy Block Development officer on 30.04.2015. Further, the 17(b) charge relating to participation in strike was dropped,



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therefore acquisition of service qualification would not apply, in as much as, the petitioner acquired eligibility for promotion as Assistant in the year 2011 itself, much before the promotion of his junior in 2015. Later in the year 2020, though the petitioner's seniority in the cadre of Assistant, was fixed retrospectively he was however, not given retrospective promotion to the post of Deputy Block Development Officer. The petitioner submitted a representation to the authorities on 27.11.2020, and as the same was kept pending without any action, the petitioner filed the above writ petition for the aforesaid relief.

4. The respondent filed a detailed counter affidavit and submitted that the petitioner's name was included in the panel for the post of 'Assistant' vide proceedings of the Tiruvannamalai District Collector Rc.No. 10383/2017/PA4, Dated 02.11.2017 and promoted as Assistant by the proceedings of the Tiruvannamalai District Collector vide Rc.No. 14740/2017/PA4, Dated 22.11.2017. The petitioner joined as Rural Welfare Officer Grade -1 on 06.12.2017. The petitioner's promotion to the post of Deputy Block Development Officer, was deferred for the years 2015-2016 to 2020-2021, since he did not acquire the requisite service qualification due to administrative



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delay in regularisation of his service and declaration of his probation.

5. It is further stated in the counter that the petitioner completed one year service, in the post of Rural Welfare Officer Grade-I on 05.12.2018 AN, and then completed one year service, in the post of Assistant on 30.09.2021 AN, only after the preparation of panel. Soon after the completion of requisite service qualification, the petitioner was promoted as Deputy Block Development Officer, on 24.12.2021. According to the respondents, the petitioner was granted promotions periodically by strictly following the service conditions as stipulated in the aforesaid Government Orders and therefore, the petitioner's claim was liable to be rejected.

6. According to the learned counsel for the petitioner, the petitioner was entitled to get retrospective promotion in the cadre of Deputy Block Development Officer, from the year 2015 viz., 30.04.2015, when his junior was promoted notionally with all consequential benefits since, there was administrative delay of ten years in passing the regularisation order and declaration of probation order. The learned counsel further submitted that acquisition of service qualification cannot be put against the petitioner as the respondents alone were to be blamed for not giving posting orders to the



petitioner to acquire service qualification.

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7. Heard both sides and perused the materials available on record.

8. The facts of the case are not disputed. The only issue is whether the petitioner could be denied promotion on the ground that he did not satisfy the condition of service qualification for the post of Deputy Block Development Officer, on the date his immediate junior was promoted.

9. From the counter, it is clear that the respondent did not consider the petitioner for promotion on the only ground that the petitioner did not satisfy the condition of service qualification. In this connection, the judgment of the Hon'ble Division Bench of this Court in the case of ***P.T.Ravindran Vs.State of Tamil Nadu (W.A.No. 1582 of 2011 & W.P.No.16761 of 2011, dated 18.02.2013)*** is worthy of reference. The Hon'ble Division Bench in the said judgment held that the service qualification could be acquired only if a posting was given in the particular post by the head of the department and the Government servant could not be blamed. The relevant paragraphs is extracted below;

“ 4. The issue as to whether the person can be denied promotion for not possessing the service qualification, without his default, if

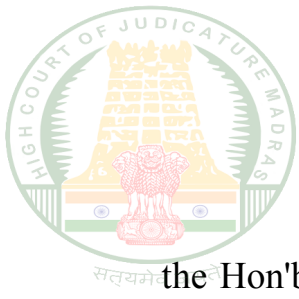


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he is otherwise qualified, was considered by the Supreme Court in the decision reported in 1996 (8) SCC 671 [VIJAYWADA GUNTUR TENALI URBAN DEVELOPMENT AUTHORITY AND OTHERS VS. MOVVA RANGA RAO AND OTHERS) and a Division Bench of this Court in W.A.No.509 to 511 of 2008. In the above said judgments, it is held that the Government servant cannot be denied promotion for want of service qualification, if he was not given a chance to acquire the service qualification by the department head. As the department is bound to place the Government servant in a particular post, to acquire the service qualification, the officer/employee cannot be blamed for not possessing such service qualification. The Department head failed to adhere to the direction issued in the above Government Letter dated 11.01.2000. Similar issue was considered by one of us (NPVJ) in the decision reported in 2012 (4) ML 535 [A.BADHRACHALAM vs. PRINCIPAL SECRETARY /COMMISSIONER OF REVENUE ADMINISTRATION, CHEPAUK, CHENNAI 600 005 AND ANOTHER]. In the said judgment, several judgments on this line rendered earlier were followed and held that service qualification can be acquired only if a posting is given in the particular post by the head of the department and the Government servant cannot be blamed. The denial of promotion on that ground alone, if he is otherwise qualified, is unreasonable and arbitrary.”

10. In yet another decision of this Court in the case ***District Collector, Thoothukudi Vs.S.Sasisivanandam (W.A.No. 391 of 2012, dated 28.10.2014)***,

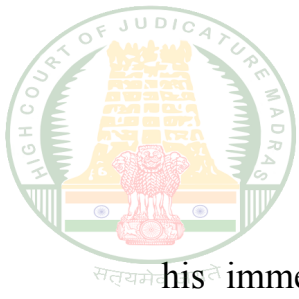


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the Hon'ble Division Bench reiterated the principles laid down by the Hon'ble Division Bench in *P.T.Ravindran* case cited supra and held that the Government servant cannot be denied promotion for want of service qualification.

11. In the present case, the only objection raised by the respondent is that the petitioner did not satisfy the condition of service qualification on the date of preparation of the panel for the post of Deputy Block Development officer, and therefore his junior was promoted to the said post, bypassing the petitioner. In the counter affidavit, the respondents unequivocally admitted that due to administrative delay, the petitioner's service was regularised only in the year 2016, i.e after a delay of 9 years, by order dated 04.07.2017, and his probation was declared retrospectively w.e.f 07.07.2009. From the respondent's own statement in the counter, it is clear as crystal that the petitioner was not to be blamed for non acquisition of service qualification and the entire fault was of the respondents only.

12. Under the facts and circumstances of the case, and in the light of the decisions of the Hon'ble Division Bench of this Court cited supra, I am of the view that petitioner is entitled for promotion and monetary benefits on par with



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his immediate junior. Accordingly, the writ petition is allowed with the following directions;

- i. The respondents are directed to pass orders promoting the petitioner to the post of Deputy Block Development Officer based on his feeder category seniority viz., Assistant as per the proceedings of the respondent dated 14.09.2020.
- ii. Consequently, the respondents are directed to give the petitioner notional promotion to the post of Deputy Block Development Officer and to pay monetary benefits along with arrears.
- iii. The aforesaid exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.
- iv. No order as to costs.

20-03-2025

Index : Yes
Internet : Yes
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To
The District Collector
Tiruvannamalai District, Tiruvannamalai



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N. MALA, J.

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