



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-10-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

**WP No. 7550 of 2025
& WMP No. 8455 of 2025**

1. P.Sudhakar,
S/o. Late, Palaniyappan,
Thiyagadurgam Panchayat Union,
Salem Main Road, Anna Ngar,
Thiyagadurgam - 606 206.

Petitioner(s)

Vs

1. The Additional Chief Secretary/
The Principal Secretary to Government,
Rural Development and Panchayat Raj
Department,
Fort St George, Chennai -9

2.The Director,
Panchayat Raj Department,
The Commissionerate Of Rural
Development and Panchayat Raj
Department, Panagul Building,
Chennai 15.

3.The District Collector



Villupuram District,
Villupuram.

4.The Personal Assistant to Collector,
(Development),
Villupuram District,

5.The District Collector
Kallakuruchi District, Kallakuruchi.

Respondent(s)

PRAYER

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records of impugned Government Order vide G.O(1-D) No.242, dated 02.06.2014 issued by the 1st respondent as well as the order of confirming the seniority list vide Ni.Mu.PA.3/09/2018, dated 30.04.2018 passed by the 3rd respondent and quash the same and consequently direct the respondents to forthwith declare the petitioner's probation in the post of junior Assistant w.e.f. 06.09.2009 which is the date of completion of the 2 year period of probation and consequently revise the seniority and fix petitioner's seniority in the Assistant /Deputy Block Development Officer cadre above the seniority positions of his juniors and pay all the monetary benefits w.e.f. 06.09.2009.

(Prayer amended as per the order dated 07.04.2025 in WMP.No.13270 of 2025 in WP.No.7550 of 2025 by CVKJ)

For Petitioner(s): Ms.M.Kruthika

For Respondent(s): Mr.S.Yaswanth, AGP

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorarified



Mandamus, to call for the records of the impugned Government Order vide G.O(1-D) No.242, dated 02.06.2014 issued by the 1st respondent as well as the order of confirming the seniority list vide Ni.Mu.PA.3/09/2018, dated 30.04.2018 passed by the 3rd respondent and quash the same and consequently direct the respondents to forthwith declare the petitioner's probation in the post of Junior Assistant w.e.f. 06.09.2009 which is the date of completion of 2 year period of probation and consequently revise the seniority and fix the petitioner's seniority in the cadre of Assistant /Deputy Block Development Officer, above the seniority positions of his juniors and pay all the monetary benefits w.e.f. 06.09.2009.

2.The case of the petitioner is that he joined as Junior Assistant on 07.09.2007 on compassionate grounds vide proceedings of the 3rd respondent dated 05.09.2007 and later, his service was regularized on 25.07.2012. However, his probation was not declared. As per Rule 32(a)(i) of the Tamil Nadu Ministerial Services Rules, every probationer is required to complete the Foundational Training at Civil Service Training Institute, Bhavanisagar. The



grievance of the petitioner is that the petitioner was not nominated to participate in the foundational training programme during probation period, but only after a lapse of 5 years, he was nominated to undergo training from 03.08.2012 to 01.10.2012. The petitioner also underwent the same and out of 5 tests, he had qualified in 4 tests, except the Office Procedure test, which he had subsequently completed on 09.02.2013. Later, vide proceedings of the Executive Authority vide G.O.No.(2D) No.242 Rural Development and Panchayat Raj Department, dated 02.06.2012, the petitioner's probation period was extended and declared to have completed on 09.02.2013 AN. Thereafter, on 11.02.2015, the petitioner was promoted to the post of Assistant and further promoted as Deputy Block Development Officer on 01.06.2022. Now, the petitioner claims that due to administrative delay on the part of the respondents in nominating him to the mandatory Foundational Training programme belatedly after a period of five years and declaration of his probation, he was deprived of his promotion as Assistant Deputy Block Development Officer on a par with his juniors and thereby, monetary loss was caused to him. Hence, this Writ Petition.



3. The 4th respondent has filed counter affidavit. The relevant paragraph

Nos. 5 and 13 to 16 are extracted hereunder:

“5. It is submitted that a person appointed to a category by direct recruitment shall be on probation for a total period of two years on duty within a continuous period of three years. In the case of the petitioner, he passed all the departmental tests within a period of two years from the date of entry in to Government service i.e on 07.09.2007. But he got through the tests conducted by the Basic Training Centre at Bhavanisagar on 09.02.2013 only. He was sent for this two months training in 183rd batch from 03.08.2012 to 01.10.2012 and it is mandatory, he ought to have passed all six tests conducted at the Training Centre. But, the petitioner cleared all papers except one and therefore, he was sent again for training in 185th batch to clear the remaining one test. He passed out the test 'Office Procedure' only on 09.02.2013 belatedly. The respondents took lenient view on the petitioner and offered him another opportunity to clear the test. Therefore, the respondents always acted in his favour by appointing him on compassionate grounds and also, another chance to clear the test in which he failed.



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“13. The petitioner was appointed on compassionate grounds and therefore, his services had to be regularized by the 1st respondent. One of the pre-requisites for sending the employee for the training is that his services needed to be regularized at that time. Upon regularization of his services, he was sent for the basic training in 183rd batch and had he cleared all the papers in the training centre, his period of probation would have been declared as completed with retrospective effect. Since he failed to get through in his first attempt, he was again sent to attempt 2nd time in 185th batch where he passed the exam.

“14. The Director, Rural Development and Panchayat Raj, Chennai the 2nd respondent herein in letter No.47348/2013/B2 dated 11.09.2013 categorically stated that though the petitioner was sent for training belatedly which was on administrative reasons, the petitioner failed in one paper which he cleared only after 2nd attempt in the 185th batch which is purely on the part of the petitioner. Therefore, the period probation of the individual employee could be declared to have completed only on 09.02.2013. The petitioner in his representation claimed that his seniority be revised with reference to original seniority fixed as on 01.01.2018 rather than the seniority fixed in Sl.No.119 based



the date 09.02.2012 on which his period of probation was declared to have completed.

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“15. The 3rd respondent in proceedings Na.Ka.No.PA3/09/2018 dated 30.04.2018 passed orders on the appeal preferred by him rejecting his claim on the grounds that he failed to clear one paper out of 6 papers in his first appearance and that he was permitted to appear as a private candidate to write the exam on 09.02.2013 after which he cleared and became eligible for promotion.

16. Since he passed the test in the 2nd attempt which is beyond 5 years period, necessary proposal was forwarded to Government for declaration of probation. The Government in G.O(1D) No.242 Rural Development and Panchayat Raj (E7) Department dated 02.06.2014, his period of probation in the post of Junior Assistant was declared to have completed on the date of 09.02.2013. Since his period of probation was declared to have completed on 09.02.2013, he became eligible to be placed in 2013-14 Assistant Panel. As per the proceedings of the District Collector, Viluppuram in Na.Ka.No.PA3/1219/2015 Dated 02.06.2015, his seniority was already fixed and placed in Sl.No.119. Therefore, the seniority of the petitioner fixed in the



cadre of Junior Assistant as on 01.01.2018 in Sl.No.119 is in order and hence, his claim was summarily rejected.”

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4. Heard the learned counsel on either side and perused the entire materials placed on record.

5.The learned counsel for the petitioner would submit that the petitioner was appointed in the post of Junior Assistant on 07.09.2007, on compassionate grounds and as per Rule 32 (a) (i) of the Tamil Nadu Ministerial Services Rules, the probation of the petitioner ought to have been declared on 06.09.2009. He would further submit that though Sections 31(2) to 31(5) of the Tamil Nadu Government Servants (Conditions of Service) Act 2016, provides for discharge of the petitioner since he failed to acquire the special qualification within the period of probation, the petitioner was not discharged, but he was allowed to continue. Further, the respondents have delayed in sending the petitioner for Foundational Training Programme and as on date, since the petitioner has completed the basic training, the probation of the petitioner ought to have been



declared from 06.09.2009. As the fault was not on the part of the petitioner and due to the administrative delay on the part of the respondents, the petitioner was deprived of his promotion as Assistant and then Deputy Block Development Officer, on a par with his juniors, whereas, when the petitioner has sought for declaring his probation, the respondents, vide impugned order dated 02.06.2014, rejected the same, which cannot be sustained.

6.The learned counsel for the petitioner would further submit that in similar circumstances, a Division Bench of this Court in WA No.248 of 2022 vide judgment dated 15.02.2022, held that the delay in sending the petitioner therein for Foundational Training Programme was not a fault on the part of the petitioner and there is no rule prescribing that a person, after completion of probation, cannot complete the training, and having allowed him to work continuously, confirming the probation on the subsequent date, is not correct. Therefore, the learned counsel would urge this Court to direct the respondents to extend the benefit of declaration of probation on completion of training as prescribed under the Rules and thereby, the petitioner's probation has to be



declared on 06.09.2009.

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7. On the other hand, Mr.S.Yashwanth, learned Additional Government Pleader appearing for the respondents would submit that the petitioner was sent for Training belatedly on administrative reasons and the petitioner failed in one paper in the first attempt and he cleared the examination only in the second attempt in 185th batch on 09.02.2013 and hence, the delay can be attributed only to the petitioner. Therefore, the period of probation of the petitioner has been rightly declared to have been completed on 09.02.1013, which requires no interference.

8. As per Rule 32 (a)(i), every person appointed to a category by direct recruitment shall be on probation for a period of two years on duty within continuous period of three years. The petitioner had completed the same on 06.09.2009. Though Sections 31(2) to 31(5) of the Government Servants (Conditions of Service) Act, 2016 provides for discharge of the petitioner since he could not acquire special qualifications within the period of probation,



however, the respondents have not discharged the petitioner, but later he has been sent for training belatedly for which, the petitioner cannot be faulted with.

In a similar situation, in W.P.No.28873 of 2017, a learned Single Judge of this Court has held that there is no fault on the part of the petitioner therein since he was sent for training belatedly and such delay can be attributed to the respondents therein in deputing the petitioner for the foundational training programme and accordingly, allowed the Writ Petition, against which, the State has preferred a Writ Appeal in WA No.248 of 2022 and a Division Bench of this Court vide Judgment dated 15.02.2022, has observed in paragraphs 11 to 13 as under:

“11. The learned Judge has relied upon the judgment in the case of T.Gunaseela Subramani and others Vs The Principal Secretary to Government, Commercial Taxes and Registration Department and others and has granted relief and he has also made an emphasis with regard to the fact that the Appellants have not produced any Rules to the effect that the training should not be completed in the second or subsequent attempts during the probation period. We are of the view that there is no rule prescribed that a person, after



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completion of probation cannot complete the training and having allowing him to work for 7 years and confirming the probation on the subsequent date is not correct. Though it was open to the Appellants to have terminated the Writ Petitioner in the extended period of probation, in the present case on hand, he was not terminated and there is no provision in existence in respect of deemed termination.

12. The Hon'ble Apex Court, in similar circumstances, elaborately dealt with the issue in the case of ***Wasim Beg Versus State of Uttar Pradesh and Ors reported in AIR 1998 SC 1291***, with regard to declaration of probation.

“16. However, even when the Rules prescribe a maximum period of probation, if there is a further provision in the Rules for continuation of such probation beyond the maximum period, the courts have made an exception and said that there will be no deemed confirmation in such cases and the probation period will be deemed to be extended.

17. The other line of cases deals with Rules where there is no maximum period prescribed for probation and either there is a Rule providing for extension of probation or there is a Rule which requires a specific act on the part of the employer (either by issuing an order of confirmation or any similar act) which



would result in confirmation of the employee. In these cases unless there is such an order of confirmation, the period of probation would continue and there would be no deemed confirmation at the end of the prescribed probationary period.”

13. In the present case on hand, the Writ Petitioner has attained the deemed declaration of probation on completion of the maximum period prescribed and he is deemed to have obtained the benefit of declaration of probation on completion of the period of 5 years prescribed under the Rules. We find no infirmity or illegality in the order passed by the learned Single Judge and this Writ Appeal is liable to be dismissed. However, it is for the Appellants to consider the case of the Writ Petitioner, regarding the grant of promotion, depending upon the Rules and Regulations that may be applicable from time to time.”

9.As stated above, the petitioner had completed two years of service and thereafter, the respondents have not discharged the petitioner though he could not acquire special qualifications during the period of probation. However, he was continued with the employment and later belatedly, he was sent for foundational training programme and he has successfully completed the training



and the delay cannot be attributed to the petitioner.

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10. Therefore, this Court is of the view that the petitioner has attained deemed declaration of probation on completion of the maximum period prescribed and he is deemed to have obtained the benefit of declaration of probation on completion of two years of service, i.e. with effect from 06.09.2009. However, it is for the respondents to consider the case of the writ petitioner regarding the grant of promotion depending upon the existing Rules and Regulations that may be applicable.

11. In view of the above, this Writ Petition stands allowed and the impugned order dated 30.04.2018 passed by the 3rd respondent in Ni.Mu.PA.3/09/2018, is hereby set aside. No costs. Consequently, connected miscellaneous petition is closed.

13-10-2025

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Index: Yes/No

Neutral Citation: Yes/No



To

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