

W.P.(MD)No.3694 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2025

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.3694 of 2022

and

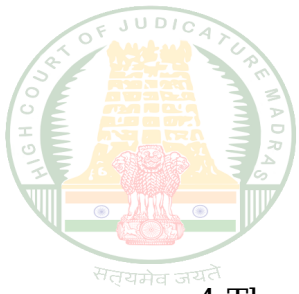
W.M.P.(MD)No.15567 of 2022

G.Arulappan

: Petitioner

Vs.

- 1.The State of Tamil Nadu rep.,
by its Secretary to Government,
Finance Department,
Fort St. George,
Chennai – 9.
- 2.The State of Tamil Nadu rep.,
by its Secretary to Government,
Public Works Department,
Fort St. George,
Chennai – 9.
- 3.The Assistant Executive Engineer,
Public Welfare Department (W.R.O.),
Pazhayar Basin Sub Division,
Nagercoil – 1,
Kanyakumari District.



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4.The Accountant General,
No.361, Anna Salai,
Chennai,
Chennai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, issue a of a Writ of Mandamus, directing the respondents to implement the G.O.Ms.No.12, Public Works (C2) Department dated 20.01.2009 and thereby pay the pending arrear to the petitioner w.e.f. 01.06.1988 to 31.08.1999 by conferring selection grade and special grade on their completion of 10/20 years of service considering the representation of the petitioner dated 04.12.2021 within a period that may be stipulated by this Court.

For Petitioner : Mr.S.Vijayakumar

For Respondents 1 to 3 : Mr.S.Shaji Bino,
Special Government Pleader

For Respondent No.3 : Mr.P.Gunasekaran,
Standing Counsel

ORDER

This Writ Petition has been filed for a Mandamus seeking for a direction to the respondents to implement G.O.Ms.No.12, Public



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Works (C2) Department dated 20.01.2009 and thereby pay the pending arrears to the petitioner with effect from 01.06.1988 to 31.08.1999 by conferring selection grade and special grade on his completion of 10 /20 years of service based on the petitioner's representation dated 04.12.2021.

2.The petitioner claims that the first respondent had defaulted to pay the arrears amount to all the Irrigation Assistants including the petitioner from the period of 01.06.1988 to 31.08.1999. In view of the same, the petitioner had given a representation dated 04.12.2021 to the first respondent, which has not been considered. Hence, the petitioner has filed this Writ Petition.

3.A counter affidavit has been filed by the respondents denying the contentions of the petitioner.

4.Admittedly, the petitioner has given the aforesaid representation only after his retirement. Admittedly, the petitioner retired from service in the feeder category. Further, Irrigation Assistant is a promotional post. However, according to the petitioner since he was working as an Irrigation Assistant, though not formally promoted for the period from 01.06.1988 to 31.08.1999, he is



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entitled for arrears of salary. The representation given by the petitioner will amount to accepting that the petitioner is entitled for notional promotion to the post of Irrigation Assistant. Since the petitioner has already retired from service, he cannot claim monetary benefits based on his alleged notional promotion for the period from 01.06.1988 to 31.08.1999, in view of the law laid down by the Hon'ble Supreme Court in its recent decision in the case of ***Government of West Bengal Vs. Dr.Amal Satpathi and Others*** reported in ***2024 Supreme (SC) 1093***. In the said decision, it has been made clear that promotion cannot be retrospectively granted after retirement, as it requires actual assumption of duties and responsibilities of the promotional post.

5.In the very same decision, the Hon'ble Supreme Court has held that promotion only becomes effective on assumption of duty and not on the date of occurrence of vacancy or the date of recommendation. In the case on hand, while the petitioner was in service, he did not claim arrears of salary for the period from 01.06.1988 to 31.08.1999 when the petitioner claims that he was doing the duty of an Irrigation Assistant which is a promotional post to that of the feeder post held by the petitioner at the time of his retirement. For issuing a Mandamus, the petitioner must establish a



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legal right. Having not established a legal right, the question of issuing a Mandamus as prayed for in this Writ Petition does not arise.

6.In the result, there is no merit in this Writ Petition. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

15.09.2025

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



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To

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ABDUL QUDDHOSE., J.

MR

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