



W.A.(MD)No.393 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.A(MD)No.393 of 2022

and

C.M.P(MD)No.3982 of 2022

1.The State represented by

The Secretary,
Rural Development,
Secretariat,
Chennai.

2.The Director of

Rural Development Department,
Panagal Building,
Saidapet,
Chennai.

3.The District Collector,

Kanyakumari District,
At Nagercoil.

... Appellants /
Respondents

Vs.

1.P.Roselet

... 1st Respondent /
Writ Petitioner



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2.Vargheese

... 2nd Respondent /
4th Respondent

3.R.Sobanam

... 3rd Respondent /
5th Respondent

4.Sasikala

... 4th Respondent /
6th Respondent

5.Gandhiammal

... 5th Respondent /
7th Respondent

6.Thomas Xavier Britto

... 6th Respondent /
8th Respondent

7.G.Ratheesh Chandra Mohan

... 7th Respondent /
9th Respondent

8.Newton

... 8th Respondent /
10th Respondent

9.Sumathi

... 9th Respondent /
11th Respondent

10.P.Nagarajan

... 10th Respondent /
12th Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order in W.P(MD)No.10418 of 2015 dated 17.02.2020 on the file of this Court and allow this Writ Appeal.

For Appellants : Mr.S.S.Madhavan
Additional Government Pleader

For Respondents : Mr.K.N.Thambi for R.1

No Appearance for R.2 to R.10



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JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

The State has filed this Writ Appeal challenging the order dated 17.02.2020 passed by the learned single Judge disposing of W.P(MD)No. 10418 of 2015 filed by the first respondent herein.

2.The first respondent herein was appointed as typist in the Rural Development Department on 16.05.1983. She was sponsored by the Employment Exchange. Her services were regularised on 25.06.1984. She was transferred to Revenue Department and later re-transferred to Rural Development Department. The writ petitioner was promoted as Junior Assistant on 18.09.1992.

3.The next promotional post is that of Assistant. The eligible qualification for being considered for the post of Assistant vide G.O(Ms)No.349 P&AR Department dated 12.04.1984 is as follows:

“(i) Individual should have passed the departmental test

(ii) Must have served Rural Welfare Officer Grade – II or as Junior Assistant for the period of 1 year.”



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4.The writ petitioner passed the departmental test on 19.11.1993.

She however completed one year as Rural Welfare Grade – 2 officer only on 21.07.1995. In the meanwhile, one Indira Bai who fulfilled both the prescribed qualifications, was promoted as Assistant. The writ petitioner initially went before the Tamil Nadu Administrative Tribunal by filing O.A.No.6399 of 2002. It was later transferred to High Court and renumbered as W.P.No.11741 of 2007. The writ petition was dismissed on 19.12.2011 for non-joinder of necessary parties. Aggrieved by the same, W.A.No.930 of 2012 was filed. The Hon'ble Division Bench even while sustaining the dismissal order on 13.10.2014 granted liberty to the petitioner to file a fresh writ petition on the same cause of action after impleading the necessary parties. Availing the said liberty, W.P(MD)No. 10418 of 2015 was filed. The learned single Judge granted relief to the writ petitioner vide order dated 17.02.2020 in the following terms:

“7. According to the petitioner, she had passed all the department tests on 19.11.1993, but she was promoted as Assistant only on 01.01.1996 and requested to assign her seniority taking into consideration of her acquiring test qualification for promotion as Assistant on 19.11.1993. According to the respondents, though the petitioner completed the departmental test in the year 1993, she completed the service qualification as Rural



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Welfare Officer Grade II only on 22.07.1995 and she became eligible for inclusion in the panel in the year 1996 only and therefore, her seniority cannot be again refixed.

8. Admittedly, sending the petitioner for one year service as Rural Welfare Officer Grade II was only in the hands of the respondents 1 to 3. Having failed to send her for one service, now she cannot be denied promotion on that ground. In similar circumstances, in the case of M.Chandrasekar Vs. the Director of Rural Development Chennai, (W.P.Nos. 47872 and 47885 of 2006 and 7791 of 2007), by order dated 04.09.2007, this Court has held in paragraph No.8 as follows:

“8.Under these circumstances, the petitioners cannot be denied the benefit of inclusion in the panel, on the ground that they did not possess the service qualification. After all, the service qualification cannot be equated to the qualification of a pass in the departmental test. While the pass in a departmental test may be in the hands of the individual, the posting of the individual to a particular post, is not within the hands of the individual. Therefore, the respondents ought to have formulated and implemented a policy providing equal opportunity to all persons to acquire the service qualifications. Since the



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respondents have failed to do so, the petitioners were not at fault and on that ground, they should not have been omitted to be included in the panel.”

9. A learned Single Judge of this Court, in similar circumstances, in the case of S.Sasisivanandam Vs. the District Collector, Tuticorin and another, reported in 2011 SCC (Mad) 1757 : (2012) 1 Mad LJ 634, by following the above decision, has quashed the impugned order therein and directed the respondents therein to include the name of the petitioner therein in the panel of Rural Welfare Officer Grade I fit for promotion to the post of Extension Officer for the year 2002 and also promote the petitioner from the date on which his immediate junior was promoted.

10. As stated earlier, for non sending for one year service, the petitioner cannot be found fault with and it is only the respondents 1 to 3 have failed to send her for such service and therefore, based on the same, the seniority of the petitioner cannot be fixed below to her junior and she denied promotion on par with her junior.

11. The other ground on which the respondents 2 and 3 denied to refix the seniority of the petitioner and to promote her is that none of her juniors was promoted as Assistant based on that seniority. In the seniority list of Junior Assistant issued by the third respondent dated 12.05.1999, the petitioner's name was placed at Serial



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No.221(a) and her juniors name mentioned as E.Chelladurai (222), T.Rajalingam (223), S.P.Rohinikumsti (224), J.Helanthangam (225), etc. As the above juniors were sent to one year service by the respondents 1 to 3 overlooking the seniority of the petitioner, they completed their one year service earlier and also departmental tests, and therefore, they became seniors to the petitioner in the seniority list of Assistant dated 14.05.1999. It is not known as to why the petitioner has been discriminated. The official respondents have not assigned any reason for sending the petitioner to such service belatedly.

12. Admittedly, the petitioner completed all the departmental tests on 19.11.1993. In the confirmed seniority list of Assistant, dated 14.05.1999, the name of the petitioner was placed at serial No.175(a) holding that though she has passed departmental test as early as on 19.11.1993, she completed one year service only on 22.07.1995. As discussed above, it cannot be accepted, as there is no fault on the side of the petitioner. Therefore, the seniority of the petitioner ought to have been fixed in between serial No.160 and 161, but the 3rd respondent has erroneously fixed the seniority of the petitioner in between Serial Nos.175 and 176 and the same was confirmed by the second respondent. Therefore, the impugned orders are liable to be set aside.



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13. In view of the fact that the petitioner has been erroneously placed in between Serial No.175 and 176, instead of Serial No.160 and 161, the immediate junior to the petitioner by name P.Indira Bai (161) and others were promoted in the hierarchy level at the earliest rather than the petitioner. Now, the petitioner as well as the juniors to the petitioners were retired from service and therefore, no prejudice would be caused to the respondents 4 to 12.

14. In view of the above, the impugned orders are set aside and the respondents 1 to 3 are directed to notionally promote the petitioner on par with her immediate junior by name P.Indira Bai (Sl. No.161) and grant all service and monetary benefits. The abovesaid exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.”

Aggrieved by the same, this writ appeal has been filed.

5.We do endorse the contentions of the learned counsel appearing for the writ petitioner / first respondent that it was not within the control of the writ petitioner to serve as Rural Welfare Officer Grade – II or as Junior Assistant for a period of one year, as the same was entirely within the domain of the employer. The writ petitioner cannot be blamed for the delayed posting of the writ petitioner as Rural Welfare Officer only on 22.07.1994. Swayed by this contention, the learned single Judge allowed



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the writ petition in favour of the writ petitioner. But then, a few fundamental aspects had not been noted by the learned single Judge.

6.Firstly, the prayer in O.A.No.6399 of 2002 which was renumbered as W.P.No.11741 of 2007 is as follows:

“Writ Petition under Article 226 of the Constitution of India praying this Honourable Court to call for the records of the 2nd respondent in D7/84390/1998 dated 14.05.1999 in so far as not fixing the seniority of the petitioner in the category of Assistant / Rural Welfare Officer Grade – I in between Mr.N.Neelagandan (SI.No.160) and Tmt.P.Indirabai (SI.No.161) and the order of the first respondent in R.C.No.66865/1999-C3 dated 9.4.2002 and quash the same and direct the respondents herein to revise the seniority of the Applicant in the category of Assistant / Rural Welfare Officer Grade – I and place the Applicant in between Mr.K.Neelagandan (SI.No.160) and Tmt.P.Indirabai (SI.No.161) with all monetary and other attendant benefits.”

It can be seen that what was challenged was only the seniority list drawn by the District Collector, Kanyakumari for the post of Assistant vide proceedings dated 14.05.1999. A mere look at the said seniority list would show that Indira Bai, with whom the writ petitioner had chosen to



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compare herself, was appointed as Assistant on 10.04.1995. Even Sasikala who ranked at S.No.165 was appointed on 27.04.1995. The writ petitioner was appointed as Assistant only on 01.01.1996. Thus, the seniority list in the post of Assistant cannot be faulted at all. A person who joins a particular post earlier would obviously rank senior to one who is appointed later in point of time.

7. Therefore, in our view, the seniority list cannot be faulted at all. The writ petitioner's actual prayer should have been to seek notional promotion ahead of Indira Bai. She failed to seek such a relief. Therefore, it is too late in the day to permit the writ petitioner to amend the prayer.

8. The Original Application which was transferred to the High Court and renumbered as W.P.No.11741 of 2007 was dismissed because the writ petitioner who was ranked at S.No.175(a), sought to be placed above Indira Bai, who was ranked at S.No.161. The learned Judge of this Court noted that the persons in S.No.162 to 175 were not impleaded as parties and on that ground the writ petition suffered dismissal. The Hon'ble Division Bench also confirmed the said dismissal order.



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However, liberty was given to the writ petitioner herein to file a fresh writ petition on the same cause of action. Availing the said liberty, W.P(MD)No.10418 of 2015 was filed. Unfortunately, while persons who were ranked from S.No.162 to 175 were impleaded, the writ petitioner failed to implead Indira Bai who was ranked at S.No.161. Thus, the second round of litigation also suffers from the very same vice of non-joinder of necessary party.

9.The learned counsel appearing for the writ petitioner contended that Indira Bai has since retired from service and that no purpose will be served by impleading her as a party. That may be the position that obtains as of now. But when the writ petition was filed, Indira Bai was very much in service. Therefore, this basic lacuna cannot be made good at this point of time. It is not merely a question of granting some monetary benefits. If the writ petitioner has to be accommodated at a higher post, it can be done only at the cost of somebody else. Somebody has to be displaced and only in that place the writ petitioner can be accommodated.



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10.the writ petitioner's prayer itself was misconceived and defective and secondly, Indira Bai was not impleaded. On these two grounds, the order passed by the learned single Judge has to be set aside. Accordingly, it is set aside.

11.This Writ Appeal is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [R.K.M, J.]
11.12.2025

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

To

The The Principal Accountant General
of Tamil Nadu,
Chennai – 18.



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AND

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