



W.P(md)No.9841 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:12.11.2025

CORAM

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

WP(MD)No.9841 of 2019

N.Kamatchi

... Petitioner

Vs.

1.The Director of School Education,
Chennai-6.

2.The District Educational Officer,
Ramanathapuram.

3.The Block Educational Officer,
R.S.Mangalam,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka.No.67223/A4/E1/2017 dated 05.02.2018 and quash the same and direct the respondents to settle all the monetary benefits by promoting the petitioner as Assistant from the date on which is juniors were given promotion with all consequential benefits.



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For Petitioner : Mr.V.Pannerselvam
For R1 to R3 : Mr.M.Sarangan,
Additional Government Pleader

ORDER

The present writ petition has been filed challenging the impugned order dated 05.02.2018, in and by which, the petitioner's claim for the post of Assistant was rejected.

2.The brief facts which are necessary for the disposal of the present writ petition is that, the petitioner was appointed as Office Assistant on 20.07.1977 on compassionate ground. According to the petitioner, though he was eligible to be appointed as Junior Assistant, since there was no vacancy at the relevant point of time he was appointed as Office Assistant. Hence, the petitioner approached the State Administrative Tribunal and filed O.A.No. 2025 of 1989. Based upon the order passed by the Administrative Tribunal, the respondent had promoted the petitioner to the post of Junior Assistant on 26.09.1994. It is the grievance of the petitioner that, though he was eligible for further promotion, the respondents have considered the promotion for the juniors and has rejected such promotion to the petitioner on the ground of absence of getting Bhavani Sagar Training and on account of non-regularization of the petitioner in the post of Junior Assistant. He would contend that the impugned order is contrary to the rule. Hence, prayed to



3.Heard Mr.V.Pannerselvam, learned counsel appearing for the petitioner and Mr.M.Sarangan, learned Additional Government Pleader appearing for the respondents.

4.The main contention put-forth by the learned counsel for the petitioner is that, since because there was a delay on the part of the respondent in sending the petitioner for Bhavani Sagar Training Institution cannot be put against the petitioner, as there was no fault on her part. If the respondent had given a direction to the petitioner to attend the training, she would have well attended the training. The learned counsel has also relied upon the judgment of this Court in *Secretary to Government, Rural Development & Panchayat Raj Department and Others V T.Sreenivasan, reported in 2024 SSC Online Mad 9365* and the judgment of the Hon'ble Division Bench in *W.A.583 of 2025(The state of Tamil Nadu, Represented by its Secretary, Rural Development and Panchayat, Raj Department, Fort St. George, Chennai and Ors., V B.Ilamparithi)*. Hence, prayed to allow the writ petition.



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5.Per contra, the said contention was stoutly objected by the learned Additional Government Pleader and would contend that by virtue of the judgment in Government of West Bengal & Ors, V Dr.Amal Satpathi & Ors, (Diary No.43488 of 2023). the petitioner's case cannot be considered as the petitioner having not officiated the position of Assistant cannot seek for notional promotion along with financial benefits. It is the further submission of the learned Additional Government Pleader that the petitioner voluntarily retired from service during 2009 and sent a representation after a period of six years from her retirement. Therefore, the present case has also hit by the delay and latches. Apart from that, the learned Additional Government Pleader would submit that the delay in regularizing is not the fault of the department, but the same was on the ground of non supply of the required documents. Therefore, he would submit that the present writ petition is liable to be dismissed.

6.I have given my anxious consideration of the submission made on either side.

7.The main focus of the learned counsel for the petitioner is that the junior to the petitioner were already been promoted.



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8.The penetrative reading of the affidavit of the petitioner, the same does not disclose who are all her juniors and have been considered for promotion so as to claim promotion on par with her junior. No doubt, the Fundamental Rules 27(17) though provides a promotion and notional benefit to those who have not been granted, in spite of the juniors were granted promotion, the learned counsel would invite the attention of this Court about the reply given by the authorities under RTI Act. Wherein, the learned counsel would submit that many of the candidates those who were juniors to the petitioner were considered.

9.But in the case in hand, except the RTI information, the seniority of the petitioner has not been proved. No doubt, the RTI reply may have some relevance to decide the case. But this is also duty cost upon the petitioner to name the juniors. Here she miserably failed to do so. Therefore, this Court is of the firm view that the above document cannot be the sole basis in deciding the petitioner's case. Apart from that, the delay in sending Bhavani Sagar Training, as rightly contended by the learned petitioner's counsel sending a person for training is upon the authority, Therefore, since because the authority has not sent a person for training to Bhavani Sagar Training institution, they cannot attribute such delay upon the employee and deny the promotion.



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10. In the case in hand, while looking at the contention of the respondents, for the purpose of regularization there was a duty cast upon the employee to submit the document along with particular that too in a proper format. Wherein it is the specific case of the respondents that the petitioner did not submit such document in a proper format, which delayed the regularization process of the petitioner and in forwarding the petitioner for the Bhavani Sagar Training.

11. Apart from that, in the meanwhile the petitioner retired from service during 2009 and had approached by way of representation only in the year 2015 qua after a period of 6 years. Though the petitioner would submit that the judgment of the Hon'ble Supreme Court in *DR. Amal Satpathi case*, (*cited supra*) which is relied by the respondents is not applicable to the present facts of the case by referring to the Division Bench judgment of this Court *T. Sreenivasan's case* (*cited supra*), while looking at the facts of *T. Sreenivasan's case* (*cited supra*) the same is in different footing and that too based upon the fundamental Rule 27(17), wherein it was a specific case of the petitioner that the many juniors were promoted.



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12. But in the case in hand, though the petitioner would contend so, there are no material documents available before this Court to prove such factum. Even the other judgment relied on by the petitioner in respect of Bhavani Sagar Training, this Court in full agreement of the submission made by the learned counsel for the petitioner. Coming back to the *Amal Satpathi case(cited supra)*, the Hon'ble Supreme Court, in Para 21, had categorically stated that unless a person officiated in a post, he is not eligible for any financial benefits. For ready reference, this Court deems it appropriate to extract para 21 as hereinbelow:

“21. While we recognize respondent No.1’s right to be considered for promotion, which is a fundamental right under Articles 14 and 16(1) of the Constitution of India, he does not hold an absolute right to the promotion itself. The legal precedents discussed above establish that promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of recommendation. Considering that respondent No. 1 superannuated before his promotion was effectuated, he is not entitled to retrospective financial benefits associated to the promotional post of Chief Scientific Officer, as he did not serve in that capacity.”



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13.No doubt, the Hon'ble Supreme Court by relying upon Rule 54(1) (a) of the West Bengal Service Rules rendered the above judgment. In our fundamental rules, we have got *pari materia* Rule in 22(1)(b)(ii) of the Fundamental Rules of Government of Tamil Nadu. Therefore the above judgment is squarely applicable to the facts of the case. Hence, this Court absolutely does not find any merit in the writ petition.

14.In view of the above, this Writ Petition stand dismissed. No costs.

12.11.2025

Index : Yes/No

Neutral Citation : Yes/No

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C.KUMARAPPAN, J.

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