



W.P(MD) No.665 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No.665 of 2017

and

W.M.P.(MD)Nos.533 & 534 of 2017

P.Jeyaraj

... Petitioner

VS

1. The Government of Tamil Nadu
represented by its Principal Secretary to
the Government,
Rural Development and Panchayat Raj Department,
Secretariat, Fort St. George, Chennai.
2. The Director,
Directorate of Rural Development & Panchayat
Raj Department, Panagal Building,
Chennai – 600 015.
3. The District Collector,
Madurai District,
Madurai.
4. The Personal Assistant to Collector
(Panchayat Development),
Office of the District Collector,
Madurai District, Madurai.



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5. The Block Development Officer,
Sedapatti Panchayat Union,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the Personal Assistant (Panchayat Development) to the District Collector, Madurai, dated 28.11.2016 in Na.Ka.No.21077/2014/V.P.3 insofar as overlooking the petitioner for promotion to the post of Junior Assistant for Rural Welfare Officer Grade II and for a consequential direction to the respondents to grant promotion to the petitioner to either one of the posts with retrospective effect from the date on which his immediate junior was promoted with all attendant and consequential service and monetary benefits.

For Petitioners : M/s.Jessi Jeeva Priya

For R-1 to R-4 : Mrs.D.Farjana Ghoushia
Special Government Pleader

For R-5 : No appearance



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ORDER

This Writ Petition has been filed challenging the order dated 28.11.2016 passed in Na.Ka.No.21077/2014/V.P.3, insofar as overlooking the petitioner for promotion to the post of Junior Assistant for Rural Welfare Officer Grade II and for a consequential direction to the respondents to grant promotion to the petitioner to either one of the posts with retrospective effect from the date on which his immediate junior was promoted with all attendant and consequential service and monetary benefits.

2. The petitioner was appointed as Panchayat Assistant on 01.12.1986. During the course of his service, the petitioner was subjected to disciplinary proceedings and was subsequently placed under suspension, which he challenged in several writ petitions. Finally, the petitioner was restored in service on 19.03.2007. In the meanwhile, the third respondent, vide order dated 08.02.2008, published a provisional seniority list of Village Panchayat Assistants working in the Madurai District. Based on the



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provisional seniority list, the candidates placed in Sl.Nos.14, 15, 17, 23, 24, 25, 29, 46, 47 and 49 were granted promotions. However, without assigning any reasons, the petitioner's name was omitted from the said seniority list published among 426 candidates. When the petitioner questioned the same, the respondent stated that his name was not included due to the disciplinary proceedings initiated against him. The contention of the petitioner is that the disciplinary proceedings was concluded in his favour. The respondents, therefore, ought to have included the petitioner in the seniority list and considered him for promotion. At one stage, the petitioner was fed up and submitted a letter dated 18.09.2019, expressing his unwillingness to accept the promotion offered by the respondents. However, the petitioner subsequently has changed his mind and resubmitted another letter dated 05.12.2019, conveying his willingness to accept the promotional post. The said letter dated 05.12.2019 was duly forwarded by the Block Development Officer, Sedapatti to the District Collector on the same day, vide Na.Ka.No.88/2017/த1, dated 05.12.2019, wherein it is specifically stated that even though the petitioner had earlier submitted a relinquishment letter, he had now withdrawn the same and



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expressed his willingness to take up the promotion. Without taking the subsequent letter dated 05.12.2019 in consideration, the District Collector has considered the earlier letter dated 18.09.2019 and passed the order dated 30.01.2020 accepted the relinquishment letter and the promotion was declined. Prior to passing the final order, the District Collector ought to have considered the letter dated 05.12.2019 and ought to have granted promotion. Since the respondents failed to grant the same, the present writ petition has been filed.

3. The contention of the respondents is that the petitioner has submitted a relinquishment letter dated 18.09.2019. When the respondents have acted upon the said letter, the petitioner is not entitled to reclaim the promotion post. Therefore, the petitioner's claim cannot be considered and the same ought to be rejected.

4. Considering the rival submissions, this Court is of the considered opinion that even though the petitioner has submitted a relinquishment letter dated 18.09.2019, subsequently, the same was withdrawn on



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05.12.2019. Admittedly, the withdrawal letter is prior to the order passed by the District Collector dated 30.01.2020. Hence, the petitioner is entitled to the promotion. Further, it is seen that the petitioner was fighting for the promotion from the year 2007 onwards and has filed several writ petitions seeking promotion. In such circumstances, it cannot be construed that the petitioner has relinquished the promotion, which the petitioner was seeking consistently since 2007.

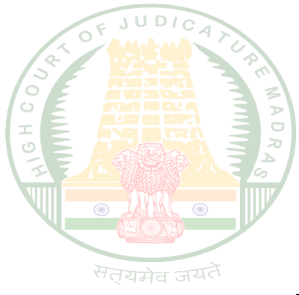
5. It is pertinent to state that the petitioner has attained superannuation on 31.05.2022. Hence the petitioner was under the apprehension that if the relinquishment letter was not given then the terminal benefits will not be disbursed on attaining superannuation. Hence, the petitioner had submitted the letter of relinquishment. The respondents taking advantage of the relinquishment letter, declined to grant the promotion. When the petitioner is in distress the relinquishment letter was submitted, hence the same ought to be ignored, more so when the petitioner subsequently had withdrawn the letter of relinquishment.



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6. It is seen from the records that the petitioner was facing disciplinary proceedings from 2008 onwards and the same had ended in the year 2010 and the petitioner was acquitted from all the charges. After the disposal of the same, the petitioner was frequently attempting to get promotion. The petitioner's name was included in the list dated 19.10.2011 for the year 2011-2012 in Sl.No.8. In spite of the same, the petitioner was not granted promotion. Therefore, the petitioner is entitled to be considered for the promotion prior to the immediate junior of the petitioner. Accordingly, the petitioner's seniority ought to be fixed prior to his immediate junior and he should be granted promotion with all consequential benefits. It is also seen that the petitioner has already attained superannuation. Therefore, the petitioner is entitled to pensionary benefits fixing in the promoted post and all the monetary benefits assigned shall be granted to the petitioner. The said exercise shall be concluded within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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7. Accordingly, this Writ Petition is allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No

Internet: Yes/No

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To

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Secretariat, Fort St.George, Chennai.
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S. SRIMATHY, J.,

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