

W.P.(MD) No.19862 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 24.07.2025

Pronounced On : 13.08.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.19862 of 2017

P.Paulthurai,
S/o. Ponnian
Thozhichal,
Udhayamarthandam Post,
Kanyakumari District. ... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary
Municipal Administration and
Water Supply Department,
Secretariat, Chennai.

2. The Director of Town Panchayats,
Kuralagam, Chennai-108.

3. The District Collector,
Kanyakumari District,
At Nagercoil. ... Respondents

PRAYER:

To issue a Writ of Certiorarified Mandamus or any other writ or order in the nature of Writ calling for the records pertaining to the Impugned Order passed by the 2nd respondent vide his proceedings in Na.Ka.No.718/2014/A7 dated 13.03.2014, quash the same and



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consequently directing the Respondents to rectify the petitioner's pay anomaly and to fix his pay and salary in the post of Executive Officer Grade-I from 12.12.2008 as per G.O.Ms.No.270 Rural Development Department dated 04.04.1990 till the date of attaining superannuation on 30.04.2013 with all retrospective and consequential service and monetary benefits and also to refix the petitioner's Pensionary benefits accordingly and to pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

APPEARANCE OF PARTIES:

For Petitioner : Mr.T.Arul, Advocate

For Respondents : Mr.J.Ashok
Additional Government Pleader for R1 to R3

J U D G M E N T

Heard.

2. The petitioner, in the present writ petition, seeks to set aside the order dated 13.03.2014 passed by the second respondent and for a consequential direction to fix his pay in the post of Executive Officer, Grade-I, with effect from 12.12.2008, in terms of G.O.Ms.No.270, Rural Development Department, dated 04.04.1990, and to grant such fixation till his date of superannuation on 30.04.2013.



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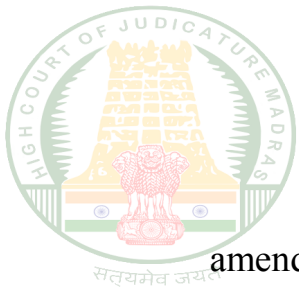
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3. When the writ petition came up for admission on 31.10.2017, the learned Additional Government Pleader took notice. Pursuant to the notice from this Court, the second respondent filed a detailed counter affidavit dated 08.04.2025, intended to be on behalf of all the respondents. The petitioner filed a reply affidavit on 17.07.2025. At the time of institution of the writ petition, the petitioner was already aged 61 years and had reached the age of superannuation.

4.The petitioner had earlier filed W.P.(MD) No. 2619 of 2014 before this Court, seeking a similar relief. The said writ petition was disposed of by order dated 18.02.2014, wherein this Court passed the following order:—

“Considering the fact that the representation of the petitioner was forwarded by the District Collector to the second respondent, the said authority is directed to dispose of the same on merits and in accordance with law, within a period of 8 weeks from the date of receipt of a copy of this order.”

5. Pursuant to the said order, the impugned order in the present writ petition came to be passed. In the impugned order, the second respondent, while rejecting the petitioner’s request, stated that, as per the



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amended rules issued by the Government, the combined State-wide seniority list of all Executive Officers, Head Clerks, and Assistants was published on 12.07.2013. Though the said list also contained the names of retired persons, there was no provision for granting them retrospective promotion so as to confer any consequential pensionary benefits. Insofar as the petitioner was concerned, he had retired from service with effect from 30.04.2013, and, since he had not actually worked in the post of Executive Officer, he was not entitled to any pay on the basis of the principle of “no work, no pay.”

6. In the counter affidavit filed on behalf of the respondents, it has been stated in paragraphs 12 and 13 as follows:—

“12. ...a section of employees filed WP(MD) No. 29265 of 2006 and the same was disposed on 28.02.2008, with direction to implement the order of Tribunal as confirmed in SLP. Consequently, the Tamil Nadu Subordinate Service Rules was amended vide G.O.Ms.No.62, MAWS Dept. dated 18.04.2009 and state level seniority lists for all four types of Executive Officer posts were drawn by reckoning the date of entry into ministerial service vide Na.Ka.No. 6793/2009/A7, dated 12.07.2013. As mentioned supra, those continuing in service and eligible for revised promotion based on state seniority were placed in the first level promotional post. Due to proposal for rule relaxation to grant next level promotion was submitted to the Government on 06.12.2014. However, the petitioner attained superannuation on 30.04.2013 and as such the question



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of granting further promotion to him did not arise.

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13. ...it is submitted that the petitioner received Selection Grade Pay in the post of Bill Collector, which was equivalent to the pay for Executive Officer Grade-II. Hence, there was no change in the pay scale while he obtained promotions as E.O.Grade-II. It is admitted fact that he requested higher pay in the post of Grade-II citing G.O.Ms.No.210 dated 11.03.1987 and the same was considered and he was accorded with Selection Grade Pay in E.O.Grade-II.”

7. In his reply affidavit dated 17.07.2025, the petitioner referred to the earlier proceedings initiated before the Tamil Nadu State Administrative Tribunal, which had culminated before the Supreme Court, and thereafter W.P. No. 29265 of 2006, which was disposed of on 28.02.2008, wherein the order of the Tribunal, as confirmed by the Supreme Court, was directed to be implemented. The petitioner also placed reliance upon the judgment of the Supreme Court in ***Ravinder Kumar Dhariwal v. Union of India***, reported in (2023) 2 SCC 209.

8. It is not clear as to how the aforesaid decision of the Hon'ble Supreme Court advances the case of the petitioner. On the contrary, in paragraph 7 of the counter affidavit, the respondents have relied upon various decisions, which are as follows:—



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“7. ...the Hon’ble Supreme Court has held in Ashok Kumar Gupta v State of UP, reported in (1997) 5 SCC 201 and Jagdish Lal v State of Haryana reported in (1997) 6 SCC 538 that there is no fundamental right to promotion but has only right to be considered for promotion when it arises and in accordance with relevant rules. More recently, it was held in SLP (C) Diary No.43488 of 2023 order dated 27.11.2024, in West Bengal & ors Vs. Dr.Amal Satpathi & ors, that the right to be considered for promotion is personal right of employee, but the promotion based on equal opportunity and seniority attached to such promotions are facets of fundamental right under Art.16(1). Further, the promotion becomes effective upon the assumption of duties on promotional post and not on the date of occurrence of vacancy or the date of recommendation, when the employee superannuated before his promotion was effected, he is not entitled to retrospective financial benefits associated to the promotional post.”

9. The petitioner has approached this Court long after his retirement, seeking to reopen a concluded issue. Even otherwise, he has not made out any case on merits. Accordingly, the writ petition stands dismissed. There will be no order as to costs.

13.08.2025

Index: Yes / No
Speaking Order / Non-speaking Order
Neutral Citation : Yes / No
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To

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DR. A.D. MARIA CLETE, J.

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Pre-delivery Judgment made in
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