Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WP No. 20742 of 2022

and

WMP No.19826 of 2022

K.Krishnan
S/o. N.Kumaravel, ..Petitioner(s)

Vs

1. The Secretary to Government,
   Agriculture and Engineering Department,
   Secretariat, Fort St.George,
   Chennai 600 009

2. The Director of Agriculture,
   Chepauk, Chennai 600 005.

3. The Assistant Executive Engineer
   O/o. The Assistant Executive Engineer,
   Agriculture Engineering Department,
   Nagercoil, Kanyakumari District

..Respondent(s)

Prayer :- This writ petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records pertaining to proceedings in Lr. No. AUP1/ 21212/ 2020 dated 17.02.2021 issued by 2nd respondent and to quash and consequently direct the respondents to notionally promote the petitioner to the post of Junior Assistant, Subsequent to being fully qualified to hold the said post and to grant all terminal and service benefits due to petitioner.

For Petitioner(s): Mrs. Malarvizhi Udayakumar

For Respondent(s): Mr. V. Tamizhagan, Gov. Adv.,
for R1 to R3

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The present writ petition has been filed seeking a direction to quash the proceedings of the second respondent dated 17.02.2021 and to direct the respondents to notionally promote the petitioner to the post of Junior Assistant and grant him all terminal and service benefits.

2. The learned counsel for the petitioner would submit that the petitioner was working under the respondent Department since 1988. However, his services were not regularised. Thereafter, the petitioner preferred an original application before the Tamil Nadu Administrative Tribunal. Despite the direction issued by the Tribunal, the respondent did not regularize his services, which necessitated the petitioner to file W.P. No.25439 of 2009. In the said writ petition, the learned Single Judge, after observing the lethargic conduct of the respondent Department in implementing the orders of the Tamil Nadu Administrative Tribunal, ultimately directed the respondent to consider the petitioner's representation pursuant to the Government Order and taking into consideration of the earlier direction of the Tamil Nadu Administrative Tribunal dated 27.06.2022.

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3. In furtherance of the above direction, the respondent Department regularized the petitioner's service, vide G.O. No.163 dated 06.06.2013. In the Government Order, it has been clearly stated that the regularization would come into effect from the date of the Government Order. However, subsequently, the Director of the Agriculture, vide proceedings dated 24.05.2017, modified the date of regularization, making it effective from the initial date of appointment, namely, 18.04.1988.

4. It is the further contention of the learned counsel for the petitioner that in order to promote to the post of Junior Assistant, a person ought to have completed seven years of service. In the case on hand, since the petitioner's services were regularized with effect from 1988, he ought to have been construed as having completed seven years of service. It is the further contention of the petitioner that the impugned order rejected the petitioner's claim on the ground that he has not completed seven years of service. If such a contention is accepted, it would only perpetuate the lethargic conduct of the respondents in not complying with the orders of the Tamil Nadu Administrative Tribunal. Hence, he prayed to interfere with the impugned order.

5. The said contention was totally objected by the learned Government Advocate and he would contend that though the petitioner's services were

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regularized on 06.06.2013 with effect from the date of his initial appointment i.e., 18.04.1988, he subsequently retired from service on 28.02.2014. As he has not completed seven years of service from the date of regularisation, he was not eligible for promotion to the post of Junior Assistant. Furthermore, for a person to be posted as a Junior Assistant, he must undergo training as a Record Clerk. In the case on hand, the petitioner has not undergone such training. Therefore, as the petitioner did not possess the requisite qualification, he could not claim promotion as a matter of right. The request for promotion is in contravention of the Service Rules and prayed to dismiss the writ petition.

6. I have given my anxious consideration to the submissions made on either side.

7. It is not in dispute that for a person to be promoted from the post of Night Watchman to Junior Assistant, he should have completed seven years of service in the relevant feeder category and should also have undergone training as a Record Clerk. In the case on hand, the petitioner has not undergone training as a Record Clerk and has not completed seven years of service from the date of his regularization, namely, during 2013.

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8. It is the specific case of the petitioner that since his services were regularised with effect from the date of initial appointment, namely, 18.04.1988, the period of seven years should be calculated from the date of his initial appointment. Had the said period been taken into consideration, he would have fulfilled the requisite qualification. However, this Court is not in a position to agree with the above submission.

9. Whenever a person is considered for promotion, the cut of date, which usually taken into consideration is the date of regularization. In the case on hand, though the petitioner was considered to have been appointed from 18.04.1988, as per the G.O.66 of 2013 and G.O.No.163 of 2013, his regularization was made only with effect from the date of the Government Order.

10. In such view of the factual position, and considering that the petitioner has retired on 28.02.2014 itself, this Court is of the firm view that, as rightly contended by the learned Government Advocate, the petitioner did not possess the requisite qualifications. Further more, though the petitioner would contend that it was the duty of the respondents to provide him with an

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opportunity to undergo the training in the respective department, in the case on hand, admittedly, the petitioner did not function as a Record Clerk.

11. It is well-settled principle of law that the promotion is not a matter of right. However, consideration for promotion is only a matter of right. In the case on hand, such consideration could be made only when the petitioner possessed the requisite qualifications. As already observed, since the petitioner did not possess the requisite qualification, this Court does not find any infirmity in the impugned order.

12. Accordingly, this writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MRP

To

1. The Secretary to Government
   Agriculture and Engineering Department,
   secretariat, Fort St.George, Chennai 09

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2. the Director of Agricutlure,
   Chepauk, Chennai 05

3. The Assistant Executive Engineer
   O/o. The Assistant Executive Engineer,
   Agriculture Engineering Department, Nagercoil,
   Kanyakumari District

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C.KUMARAPPAN, J.

MRP

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