

(2006) 09 MAD CK 0149
In the Madras High Court
Case No : Writ Petition No. 28935 of 2004

R. Mathivanan

APPELLANT

Vs

The District Collector and The Registrar, Tamil Nadu
Administrative Tribunal

RESPONDENT

Date of Decision : 20-09-2006

Acts Referred:

Tamil Nadu Grama Sevak Service Special Rules — Rule 11

Citation : (2007) WritLR 41

Hon'ble Judges : Elipe Dharma Rao, J;A. Kulasekaran, J

Bench : Division Bench

Advocate : K. Raja, for the Appellant; P. Subramani, G.A. for 1st Respondent,
for the Respondent

Final Decision : Allowed

Judgement

Elipe Dharma Rao, J.—Aggrieved of the order of dismissal of O.A. No. 10590 of 1998 dated 27.8.2002 passed by the Tamil Nadu

Administrative Tribunal, this Writ Petition is filed.

2. The case of the petitioner is that the petitioner was originally appointed as Rural Welfare Officer Grade II on 21.3.1975 in Thanjavur district.

Subsequently he was transferred from Thanjavur district to Dindigul district on 3.5.1982. As the transfer was made at the request of the petitioner,

he was placed at the bottom of the seniority list in the category of Rural Welfare Officer Grade II/Junior Assistant in Dindigul district. Later on, the

District Collector, Madurai in his proceedings dated 5.10.1988 placed him at Sl. No. 502 in the category of Rural Welfare Officer Grade-II by

placing him at the bottom of the seniority list. One Mr. R.Navaneethakrishnan was placed at Sl. No. 507 in the category of Rural Welfare Officer

Grade II much below to the petitioner. When the District Collector by proceedings dated 8.5.1989 prepared the panel for the post of

Assistant/Rural Welfare Officer Grade I for the year 1989, his name was included at Sl. No. 47, whereas the said Navaneethakrishnan was shown

at Sl. No. 48. Subsequently the said Navaneethakrishnan was promoted, whereas the petitioner was not promoted as Assistant/Rural Welfare

officer Gr.I on the ground that the petitioner did not pass the prescribed test. However, the petitioner finally passed the prescribed test on

14.11.1990. When inter se seniority was fixed in the category of Rural Welfare Officer Grade II/Junior Assistant, the District Collector, Madurai

placed the petitioner at Sl. No. 83 and the said Navaneethakrishnan at Sl. No. 90. In the provisional seniority list of Rural Welfare Officer Grade

II/Assistant prepared by the District Collector, Dindigul Anna District through his proceedings dated 5.1.1993, the said Navaneethakrishnan was

placed at Sl. No. 309. When he passed the test on 14.11.1990, without considering his case, in the inter se seniority list prepared for promotion to

the category of Rural Welfare Officer Grade-I/Assistant, several juniors were included and they were all promoted as Assistant/Rural Welfare

Officer Grade I in the years 1990, 1991 and 1992 respectively and they are all now working as Deputy Block Development Officer/Block

Development Officer. At that time, the petitioner approached the Tribunal and filed O.A. No. 10590 of 1998, which was dismissed on 27.8.2002.

Aggrieved of the above, the writ petition is filed.

3. The learned Counsel for the petitioner submitted that Special Rules for the Tamil Nadu Grama Sevak Service were framed in G.O.Ms. No.

1163, Rural Development and Local Administration Department dated 10.6.1976 and as per Rule 11(b) of the above said G.O., when an

employee is transferred from one district to another district on request, the seniority of the employees has to be placed at the bottom of the list of

probationers or approved probationers or full members as the case may be in that category. At the time of his transfer on 3.5.1992, the District

Collector has rightly placed the name of the petitioner at the bottom of the seniority list in the Grade of Rural Welfare Officer Grade II/Junior

Assistant. But when the seniority was prepared for the years 1990, 1991 and 1992, instead of placing his name at the bottom of the approved

probationer, the date of joining was taken for fixing the seniority. By virtue of the above said alleged reason given by the respondent, several

juniors, who were placed far below the petitioner, were promoted. Therefore, as admitted by the respondents in their counter affidavit that in the

seniority list fit for promotion as Rural Welfare Officer Grade I/Assistant, only the date of joining i.e. 3.5.1982 was taken into consideration,

instead of placing him at the bottom of the list of approved probationer. Therefore, the action is contrary to the provisions of law contemplated in

Rule 1(b). When it is admitted by the respondents themselves, the order passed by the Tribunal and the subsequent proceedings issued by the

respondents, placing his juniors over and above him and further promoting them to the higher post are illegal and therefore the order impugned in

this writ petition is liable to be set aside.

4. We heard the learned Counsel for the petitioner and the learned Government Advocate appearing for the respondent.

5. We have gone through the entire papers on record. As contended by the learned Counsel for the petitioner and even admitted by the

respondents themselves, the seniority of the petitioner was fixed only on the basis of his date of joining in Madurai district i.e. on 3.5.1982. In the

counter affidavit filed by the respondents in O.A. No. 10590 of 1998, it is stated as follows:

The Assistant Director of Agriculture (T & V) Kumbakonam informed that his seniority will be fixed as Rural Welfare Officer Gr.II in Madurai

district as per Rule 11(b) of G.O.Ms. No. 1163, R.D. Department dated dated 10.6.76 vide pran 22329/82/A3 dt.15.3.82 of the Director of

Rural Development, Chennai. The applicant name was placed at S. No. 502 of the provisional seniority list of Junior Assistant/RWO.II cashier

communicated in Pron. 217384/87/K4 dt.5.10.88 of Collector, Madurai district. Subsequently the applicant's name was placed at Sl. No. 83 of

the final seniority list of Junior Assistant/RWO.II/Cashier communicated in Proc.K3/3546/91 dt.25.11.92 of Collector, Madurai. The name of

Thiru R.Navaneethakrishnan was placed at Sl. No. 90 in the same seniority list. It is submitted that the date of appointment adopted for the

purpose of fixing inter se seniority in respect of persons transferred from one district to other on request should be the date of joining in the district

to which he was transferred. Even though the applicant was first appointed as RWO II on 21.3.75, he was transferred to Madurai district at

request his seniority was fixed on the date of joining in Madurai district i.e. on 3.5.1982.

6. This is, factually, not in consonance with Rule 11(b) of G.O.Ms.1163, Rural Development and Local Administration Department, dated

10.6.19786. Rule 11(b) reads as under:

11. Postings and Transfers:

a) ...

b).. In case of transfer by mutual consent or at request the person will take his rank last in the list of probationers or approved probationers or full

members as the case may be in that category.

7. Therefore, we are satisfied that fixing of seniority of the petitioner from the date of joining at Madurai i.e. on 3.5.1982, is contrary to Rule 11(b).

The respondents should have placed the petitioner at the bottom of the list of probationers or approved probationers or full members as the case

may be in that category. Therefore, we hold that the action of the respondents in fixing the seniority of the petitioner taking into account the date of

joining in Madurai district, subsequent to the transfer at his request, is contrary to Rule 11(b). The respondents should not have taken the date of

joining i.e.3.5.1982 to fix the seniority.

8. Therefore, the impugned order passed by the Tribunal is set aside. The first respondent is directed to fix the seniority of the petitioner, taking

into consideration that he must be placed at the bottom of the approved probationers, as he has joined in Madurai district as Rural Welfare Officer

Grade II and also he has passed the required test in the year 1990. Therefore, the petitioner's case shall be considered for inclusion in the seniority

list by placing him at the appropriate place in the list of approved probationers, as per Rule 11(b)(supra) and further promotion on par with his

juniors. The said exercise shall be done within a period of twelve weeks from the date of receipt of a copy of this order. The writ petition is

allowed. No costs.