

(2006) 03 MAD CK 0061

In the Madras High Court

Case No : Writ Petition No. 36721 of 2005 (T)

S. Harirajulu

APPELLANT

Vs

The District Collector

RESPONDENT

Date of Decision : 13-03-2006

Acts Referred:

Citation : (2006) 03 MAD CK 0061

Hon'ble Judges : K. Suguna, J

Bench : Single Bench

Advocate : V. Suthakar, for the Appellant; V. Subbiah, AGP, for the Respondent

Final Decision : Dismissed

Judgement

K. Suguna, J.—The petitioner has initially filed O.A. No. 8649/97 on the file of the Tamil Nadu Administrative Tribunal challenging the

order of the respondent dated 18.10.1996. The petitioner was appointed as Rural Welfare Officer Grade II in the year 1963 and subsequently he

was promoted as Rural Welfare Officer Grade I with effect from 31.12.1983. In the year 1984, the Government has, in G.O.Ms. No. 585

RD&LA dated 12.4.1984, introduced a single service rules in the Rural Development Department wherein the post of Rural Welfare Officer was

merged with Ministerial service. Consequently, even the incumbents of Rural Welfare Officer Grade I and II have to pass the test which were

originally prescribed for ministerial service. Originally, by the G.O.Ms. No. 325 RD & LA dated 26.04.1985, a period of 3 years time was given

for acquiring the above said test qualification. Subsequently, the time has been extended for acquiring the test qualification for the incumbents for

the post of Rural Welfare Officer cadre upto 11.05.1990. A number of Original

Applications have been filed challenging the extension of time and finally, the Hon''ble Supreme Court, by order dated 04.05.1994, extended the time for passing the above test upto 04.05.1994, i.e., the date on which the Hon''ble Supreme Court order has been passed. As far as the petitioner is concerned, his name has been included in the panel drawn for promotion to the post of Extension Officer for the year 1994, since the petitioner had passed the relevant test only in November 1993. But, according to the learned Counsel appearing for the petitioner, basing on the order passed in C.A. No. 61-93/1994 dated 04.05.1994, his name should have been included in the panel drawn for the year 1992. Hence, as against the non-inclusion of his name in the panel of 1992, the petitioner has preferred an appeal. Since no orders have been passed, he has filed the above Original Application for the issue of a direction, directing the respondent to include his name in the Presumptive Panel of Extension Officer for the year 1992. The learned Counsel appearing for the petitioner, relied on the following portion of the order passed by the Hon''ble Supreme Court in C.A. No. 61-93/1994 dated 04.05.1984:

We are of the view that the interest of justice would be met if we hold that all the employees who passed the examinations and tests till today be treated similarly as the employees who passed the test within the permissible period, that is, before May 11, 1990.

2. The learned Counsel appearing for the petitioner contended that though the petitioner had passed the test in November 1993, as per the said order, he should be treated similarly along with other Rural Welfare staffs who had passed the test prior to 11.05.1990 and if it is so, his name would have been included in the Panel of 1992. But, taking into account the date of passing the Department test i.e., November 1993, the petitioner's name has been included in the Panel of Extension Officer in the year 1994. According to the learned Counsel appearing for the petitioner, since the Panel is only a Presumptive Panel and not a regular Panel and the Panel was drawn only in the year 1996, though it is for the year 1992-1993 and 1994, on the date of drawal of the Panel, he was qualified. Hence, according to the learned Counsel appearing for the petitioner, his name should have been included in the Panel for the year 1992 and not 1994.

3. On the other hand, the learned Counsel appearing for the respondent has contended that as far as the order by the Hon"ble Supreme Court in

C.A.61-93/1994 is concerned, it related to the employees who were forced to face the orders of reversion since they could not pass the

Department test prescribed by G.O.Ms. No. 585 RD&LA Department dated 12.04.1984. As per the said order, even though the Rural Welfare

cadre staffs have not passed the test within the extended time prescribed by the Government i.e., on or before 11.05.1990 and even though they

passed the test subsequent to 11.05.1990, they have to be treated similarly as that of the other Rural Welfare staffs who had passed the

Department test prior to 11.05.1990. Basing on this, the learned Counsel appearing for the respondent has contended that this is applicable as far

as reversion is concerned and not for promotion. For this, the learned Counsel appearing for the respondent has relied on the order passed by the

Division Bench of this Court in W.P. Nos. 23726 & 23727 of 2001 dated 25.02.2002. According to the learned Counsel appearing for the

respondent, the petitioner"s name has to be included for promotion to the post of Extension Officer only in the year 1994.

4. I have considered the above submissions made by the learned Counsel appearing for the petitioner as well as the learned Counsel appearing for

the respondent. Admittedly, the petitioner was promoted as Rural Welfare officer Grade I with effect from 31.12.1983 and with effect from

12.04.1984 by G.O.Ms. No. 585 RD&LA Department, a single service rule have been introduced by which the incumbents of the cadre of Rural

Welfare Officer Grade I have to pass certain Departmental tests for promotion to the post of Extension Officer. Originally, a period of three years

was given to pass the said tests. Subsequently, that was extended upto 1990 by the Government. When the matter came up before the Hon"ble

Supreme Court, by order dated 04.05.1984, it held that the Rural Welfare cadre staff who had passed the test subsequent to 11.05.1990, have to

be treated similar to those who had passed the test prior to the said date. In other words, as far as the issue before the Hon"ble Supreme Court is

concerned, on the ground of non-passing of the Department test prescribed in the single service rule, whether reversions could be ordered or not.

The Hon"ble Supreme Court has passed order that even the Rural Welfare cadre staff who had passed the Departmental tests after 11.05.1990

need not be reverted, though they have not passed the test within the time prescribed by the Government. In this context alone, the Hon"ble

Supreme Court has given observation saying that those who have passed the test subsequent to 11.05.1990 and upto 04.05.1994 have to be

treated similarly to those who had passed tests prior to 11.05.1990. Hence, the contention of the learned Counsel appearing for the petitioner,

relying on the word ""to be treated similarly"", that the name of the petitioner should be included in the Panel in the year 1992 cannot be accepted

since the petitioner had passed the Department test only in November 1994. When the test qualification has been prescribed for promotion to a

higher post, after passing the said test alone one will acquire the right to be considered for promotion to the higher post. Admittedly, since the

petitioner acquired the said qualification only in November 1993, his name was rightly included in the Panel of 1994. As rightly contended by the

learned Counsel appearing for the respondent, even in the order passed by the Division Bench of this Court in W.P. Nos. 23726 & 23727 of

2001 dated 25.02.2002 it is clearly held that:

If they had passed the test after 1990 and before 1994, that enables them to retain their post but does not entitle them to claim a right to have the

promotions preponed and claim seniority over those who had passed the test earlier and who had thereby qualified themselves for promotion.

As such, the petitioner cannot claim his name to be included in the Panel of 1992 when he had passed the test only in November 1993. Whether

the Panel is a Presumptive Panel or a regular Panel, only subsequent to the passing of the test alone, the petitioner will get the right for

consideration of his name for inclusion in the Panel. As such, the petitioner's claim to include his name in the Panel of 1992 is un-sustainable.

Hence, the writ petition is dismissed. No costs.