

(2006) 03 MAD CK 0235
In the Madras High Court
Case No : W.P.No. 32017 of 2005 (T)

V.S. Subramaniam

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 01-03-2006

Acts Referred:

Citation : (2006) 03 MAD CK 0235

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : N. Kolandaivelu, for the Appellant; R. Lakshminarayanan, GA, for the Respondent

Judgement

N. Paul Vasanthakumar, J.—The prayer in this writ petition is to direct the respondents to promote and include the name of the petitioner in the seniority list of Assistant Cadre prepared by the 3rd respondent through his proceedings ROC W4/18161/84 dated 06.03.1984 in an appropriate place and consequently promote the petitioner herein as Extension Officer, and further as Deputy Block Development Officer with all attendant benefits.

2. The brief facts in this case as stated in the affidavit is that the petitioner was appointed as Junior Assistant in Edappadi Panchayat Union Office, Sankari Taluk, Salem District on 18.01.1961 and his service was regularised from the date of appointment. The petitioner was promoted as Head Clerk on 25.05.1964 and the petitioner also passed all the departmental tests prescribed for promotion as Assistant in the year 1967. The petitioner was placed under suspension on 05.08.1983 by the third respondent based on certain allegations and a criminal case was registered and the same was tried as in CC No.304/84 on the file of the Judicial Magistrate II, Sankari. The petitioner even though was originally convicted, the same was set aside in CA.No.49/93 by the Additional Sessions Judge, Salem. The petitioner was proceeded departmentally and due to the pendency of the departmental proceedings, he was not given promotion. According to the petitioner, the Government in G.O.Ms.No.77, Rural Development

Department dated 22.07.2004, dropped all the departmental proceedings against the petitioner on the ground that none of the charges against the petitioner was proved. According to the petitioner, he retired on attaining the age of superannuation on 30.11.2000 and his promotion due from time to time was denied due to the pendency of the departmental proceedings initiated on 17.05.1984. The learned counsel for the petitioner submitted that since departmental proceedings are dropped through G.O.Ms.No.77 Rural Development Department dated 22.07.2004, the petitioner is entitled to get due promotion from the day of his junior who was given promotion. The petitioner submitted a representation to the District Collector, who is the third respondent herein on 17.04.2005 and claimed promotion as it has been given to his junior namely (a) M.Balambal, who was placed in S.No.325 and (b) A. Basrudeen, who was placed in S.No.327.

3. In the judgment of the Hon"ble Supreme Court reported in 1990 1 SLJ 185 (C.O. Arumugam and Ors. v. The State of Tamil Nadu and Ors.) in para 5, it is held that once the charges are dropped, the Government servant shall be given all promotional benefits which were denied due to the pendency of the charges. Since the petitioner retired from service on 30.11.2000, granting promotion at this stage, will not arise. However, he is entitled to get notional promotion to the post in which his immediate junior was granted promotion from the day and entitled to fix his salary notionally for the purpose of pension. The same request is made by the petitioner before the third respondent on 17.04.2005. The claim of the petitioner is therefore, justified and the third respondent is directed to pass orders granting notional promotion at the appropriate stage and fix his salary as on 30.11.2000 for the purpose of revision of pension alone and the petitioner is entitled to get arrears of revised pension from 01.12.2000. The third respondent is directed to pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order.

4. With the above direction, the writ petition is disposed of accordingly. No costs.