

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 25.3.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.No.23288 OF 2014 & M.P.No.1 & 2/14

K.Madhanagopal ... Petitioner

versus

1.State of Tamil Nadu, rep. By its
Secretary to Government,
Revenue Department,
Fort St.George, Chennai 9.

2.The Commissioner,
Survey and Settlement,
Chepauk, Chennai 5

... Respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in letter.No.39760/SS-3(1)/2013-2, dated 30.4.2014, quash the same and consequently direct the first respondent to promote the petitioner to the post of Deputy Director, Survey and Settlement in the panel for the year 2010-11 by implementing G.O.(1D) No.312, dated 31.10.2011 and consequently revise the pay of the petitioner notionally for the purpose of pension.

For petitioner

Ms.Dakshayani Reddy

For respondent

Mr.A.Kumar, Spl.G.P.

O R D E R

The petitioner challenges the proceedings dated 30 April 2014 whereby and whereunder, the first respondent rejected his request to fix the pay notionally in the post of Deputy Director, taking into account the Government Order in G.O.(1D) No.312, dated 31 October 2011.

2. The petitioner was initially appointed in the post of Field Supervisor. The petitioner was finally promoted to the post of Assistant Director of Survey and he functioned as such, till his retirement.

3. The post of Assistant Director of Survey is the feeder category for promotion to the post of Deputy Director of Survey and Settlement. The Government have issued orders in G.O.(2D) No.541 and 542 dated 5 October 2006 preparing the panel for promotion to the post of Deputy Director. Name of the petitioner was also included in the said panel. The Government have issued an order in G.O.(1D) No.187 dated 15 June 2011 indicating the total vacancy for the post of Deputy Director of Survey and Land Records. According to the said government order, there are two posts of Deputy Director of Survey and Land Records for the panel year 2010-11. The Government approved the list of Assistant Directors for promotion to the post of Deputy Director vide government order in G.O.(1D) No.312, dated 31 October 2011. Name of the petitioner was also shown in the said list for promotion to the post of Deputy Director. Since the petitioner attained superannuation on 31 October 2011, he was not given the benefit of promotion, by operating the government order in G.O.(1D) No.312, dated 31 October 2011.

4. Subsequently, promotions were given to Mr.Venkatachalam and Mr.Manoharan as Deputy Directors. According to the petitioner, he should have been promoted to the post of Deputy Director before giving promotion to his juniors. The petitioner submitted a representation dated 22 October 2013, requesting the second respondent to consider him for promotion, pursuant to the order in G.O.(1D) No.312, dated 31 October 2011. The representation was rejected on the ground that Thiru.Venkatachalam was senior to him and that his junior Thiru.Manoharan was promoted only by including in the next panel for the year 2011-12. Feeling aggrieved, the petitioner is before this Court.

5. The first respondent filed a counter affidavit wherein it was clearly admitted that the petitioner was eligible for promotion as on the date on which he retired from service. The first respondent also admitted that Thiru.Manoharan was later promoted as Assistant Director of Survey and Land Records, by including his name in the panel for the year 2011-12. According to the first respondent, Thiru.Venkatachalam was given promotion pursuant to the order in W.P.No.16303 of 2011 and after giving promotion, he retired from service on 31 October 2011.

6. The learned counsel for the petitioner contended that the Government have approved the panel as per order in G.O.(1D) No.312, dated 31 October 2011. The second respondent has to do only ministerial action to comply with the order dated 31 October 2011. According to the learned counsel, knowing very well that the petitioner is retiring non 31 October 2011, the second respondent kept the file pending and he was not given promotion. According to the learned counsel, the petitioner is eligible for promotion to the post of Deputy Director with effect from 31 October 2011.

7. The learned Additional Government Pleader justified the impugned order.

8. The petitioner was promoted to the post of Assistant Director of Survey with effect from 6 October 2006. The next avenue of promotion is to the post of Deputy Director of Survey and Settlement. Even according to the respondents, the petitioner is eligible to be promoted to the post of Deputy Director as on 31 October 2011. The Government have included the name of the petitioner for promotion and thereafter, approved the list of Assistant Directors fit for promotion to the post of Deputy Director for the year 2010-11 vide order in G.O.(1D) No.312, dated 31 October 2011. The second respondent should have acted swiftly to promote the petitioner taking into account his date of retirement. It is also matter of record that there were two vacancies and as such, the petitioner could have been promoted along with Thiru.Venkatachalam. The first respondent in the counter affidavit very clearly stated that the petitioner was eligible to be promoted for the year 2010-11. However, for the reasons best known, the second respondent failed to act before the retirement of petitioner in spite of approval of panel by the Government. The petitioner was not responsible for the delay. The proposal was made by the second respondent as early as on 11 February 2011 for promotion to the post of Deputy Director. It is true that the Government have approved the list only on 31 October 2011. The petitioner would have received better pension, in case he was given promotion before the date of his retirement. The first respondent rejected the request of the petitioner for promotion only on the ground that case of Thiru.Venkatachalam cannot be compared with his case. Even other wise, the petitioner is eligible to be promoted for the year 2010-11 in view of the availability of post and the government order in G.O.(1D) No.312, dated 31 October 2011. I am therefore of the view that the petitioner is entitled to succeed.

9. In the result, the impugned order dated 30 April 2014 is set aside. The first respondent is directed to promote the petitioner to the post of Deputy Director, notionally, with effect from 31 October 2011, in the light of the government order in G.O.(1D) No.312, dated 31 October 2011. The first respondent is directed to comply with this order within a period of two months from the date of receipt of a copy of this order.

10. In the upshot, I allow the Writ Petition. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

tar

To

1.The Secretary to Government,
Revenue Department,
Fort St.George, Chennai 9.

2.The Commissioner,
Survey and Settlement,
Chepauk, Chennai 5

1 cc to Government Pleader, Sr.No17006

1 cc to Mr.Ms.Dakshayani Reddy , Advocate, SR.No.16858

W.P. No.23288 of 2014

skv (co)
pmk.11.4.2015



WEB COPY