

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.07.2015

Coram

THE HONOURABLE Mr.JUSTICE D. HARIPARANTHAMAN

Writ Petition No.22068 of 2015
and M.P.No.1 of 2015

V.Mohan

..Petitioner

Vs.

The District Collector,
Nagapattinam.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records of the impugned order passed by the respondent in Na.Ka.No.2134/C/t//2/2013 dated 03.12.2013 and to quash the same and to issue consequential direction to the respondent to grant notional promotion to the petitioner as Assistant from the year 2010 on par with his juniors and to grant monetary benefits and revision of pension with arrears arising thereof.

For Petitioner : Mr.K.Shanmugam

For Respondents : Mr.K.V.Dhanapalan,A.G.P.

O R D E R

Mr.K.V.Dhanapalan, learned Additional Government Pleader takes notice for the respondent.

2. With consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner was initially appointed as Office Assistant on 15.12.1983. Thereafter, he was promoted as Junior Assistant on 01.03.1996. Since he did not pass the departmental examination within the period of 5 years, the declaration of probation in the post of Junior Assistant was not made.

4. While so, the petitioner passed all the examinations after 13 years, i.e., on 31.12.2009. In these circumstances, the Government issued G.O.(1D)No.389 Rural Development and Panchayat Department dated 26.07.2012 declaring the probation of the petitioner retrospectively with effect from 31.12.2009, the date on which, he passed all the Departmental Examinations.

5. The petitioner reached the age of superannuation on 31.07.2012.

6. The petitioner made a representation to include his name in the panel for promotion to the post of Assistant in the year 2010 as the crucial date is 14.03.2010. As on 14.03.2010, the petitioner was entitled to be included in the panel for promotion to the post of Assistant in view of the aforesaid Government Order.

7. The request of the petitioner was rejected by the respondent by an order dated 03.12.2013 on the ground that the Government issued G.O.(1D)No.389, Rural Development & Panchayat dated 26.07.2012 and when the Government issued the G.O, the panel was already prepared.

8. In my view, the impugned order is erroneous. The respondent should have included the petitioner in the panel for promotion to the post of Assistant in the year 2010 at the appropriate place and he should also be given promotion notionally so that he would get enhanced pension on his retirement on 31.07.2012.

9. In these circumstances, I am of the view that the impugned order is liable to be interfered with. Accordingly, the writ petition stands allowed and the impugned order is set aside and a direction is issued to the respondent to pass appropriate orders in the light of the aforesaid observation within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

vsi

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The District Collector,
Nagapattinam.

+ 1 cc to Mr.K.Shanmugam, Advocate SR 37467

+ 1 cc to the Govt.Pleader SR 37741

rj(co)
prk19/8

W.P.No.22068 of 2015