IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2016

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The Honourable Mr.Justice HULUVADI G.RAMESH
and
The Honourable Mr.Justice V.PARTHIBAN

W.A. No.1546 of 2014 and agend W.P.8031/2014

MP No.1 of 2014

1. The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai-600 009.

2. The Additional Chief Secretary,
Commissioner of Revenue Administration,
Chepauk,
Chennai-600 005.

3. The District Collector,
Krishnagiri.

4. The District Revenue Officer,
Krishnagiri. .. Appellants

Vs.

S.Samraj ...Respondent

Writ Appeal is filed under Clause 15 of the Letters Patent, against the order dated 03.06.2014 in W.P.No.8031 of 2014 passed by the learned single Judge of this Court.

W.P.NO.8031/2014

This writ petition filled under Article 226 of the constitution of India pray to issue a writ of Certiorarified Mandamus, to call for the rewards relating to the 3rd respondent in his proceedings No.Roc.12040/2006/A1 dated 02.03.2013 in respect of non inclusion of my name in the panel of Depurty Tahsildars for the year 2009 in Krishnagiri District and to quash the same, in so far as this petition is concerned and consequently direct the third respondent to include my name below J.C.Murugan in the panel of Deputy Tahsildars for 2009 from carried over vacancies applicable to SC/ST community vide ROC.NO.12040/2006/A1 dated 02/03/2013

For Appellants : Mr. P.S.Sivashanmughasundaram, Spl.G.P.

For Respondent : Mr.S.Vijayakumar

JUDGMENT

(Judgment of the Court was delivered by V.PARTHIBAN, J.)

This Writ Appeal has been filed against the order of the learned single Judge dated 03.06.2014 passed in W.P.No.8031 of 2014, allowing the writ petition as prayed for by the writ petitioner, who is the respondent herein.

2. In the Writ Petition, the prayer sought for by the respondent herein, is as follows:

> "To issue Writ of Certiorarified Mandamus, to call for the records relating to the third respondent in his proceedings No.Roc. No.12040/ 2006/A1 dated 2.3.2013 in respect of non inclusion of the petitioner name in panel of Deputy Tahsildars for the year 2009 in Krishnagiri District and to quash the same in so far as this petitioner is concerned and consequently direct the third respondent to include the petitioner name below J.C.murugan in the panel of Deputy Tahsildars for the year 2009 from carried over vacancies
>
> applicable to SC/ST Community vide Roc. No.12040/ 2006/A1 dated 2.3.2013."

3. The facts, which impelled the respondent to approach this Court, are as follows:

4. The respondent joined the Revenue Department as Record Clerk on 22.6.1996 and subsequently, he was promoted to the post of Junior Assistant with effect from 24.2.2001 and thereafter, he was also promoted as Assistant on 14.10.2009 and posted at the Office of the District Collector, Krishnagiri District. The next avenue of the promotion is to the post of Deputy Tahsildar. In 2009, a panel was drawn in respect of eligible Assistants for the purpose of promoting them to the post of Deputy Tahsildar. According to the respondent, though he was eligible for consideration, he was omitted to be included in the panel. Subsequently, the panels were drawn for the years 2010, 2011 and 2012 also. However, the respondent's name was not included in those panels as well.

5. Aggrieved by the non-inclusion of his name in the panel

drawn for 2009 and also for subsequent years, the respondent approached this Court, questioning his non-inclusion in the panels. According to the respondent, he was fully eligible to be considered for the year 2009 itself since he passed all relevant departmental tests and yet for the reasons unknown to him, his name was not included in the panel.

6. In the Writ Petition, a counter affidavit was filed on behalf of the appellants herein, stating that apart from passing of the requisite tests, in order to become eligible for promotion to the post of Deputy Tahsildar, an incumbent had to require the qualification of having worked as Junior Assistant and above, for a period of not less than 8 years,of which, two years shall be on duty as an Assistant and another two years as a Revenue Inspector. According to the appellants, the crucial date for drawal of panel for the year 2009, was 15.4.2009 and on which date, the petitioner had not acquired the qualification of having worked as Assistant for two years or as Revenue Inspector and therefore, his name was not included in the panel.

7. According to the respondent, he was not given promotion as Junior Assistant and Assistant on time though he became eligible, but he was overlooked and his juniors were given promotion and the respondent was constrained to file a writ petition before this Court and also a representation submitted before the authority concerned. Thereafter, it appears that the Government had issued G.O.Ms.No.2(D) No.11 Revenue Department, dated 9.1.2003 including the name of the petitioner in the panel for Assistant for the year 2005 Krishnagiri District while granting exemption in the service Rules. Such retrospective promotion was also ordered to be recorded in the service register of the respondent. Therefore, the respondent contended that on the crucial date, i.e. 15.4.2009, he had completed more than 4 years of service in the cadre of Assistant and non-working in the cadre of the Revenue Inspector was not his fault. Needless to mention that the promotion order of Assistant from 2005 was issued only in the year 2013 belatedly which resulted in depriving the respondent of his due promotion as Assistant at appropriate time and consequently, resulted in denial of promotion to the post of Deputy Tahsildar in the year 2009.

8. While taking note of the submissions of the parties, the learned Judge allowed the Writ Petition by rightly concluding that for the purpose of promoting the respondent to the post of Deputy Tahsildar, it should be considered that he was eligible for being included in the panel drawn for the year 2009, for which, the crucial date was 15.4.2009. The learned Judge reasoned that for the default or fault committed by the Department, the respondent cannot be allowed to suffer. The learned Judge also noted the fact that subsequent to 2009, the respondent had worked as Revenue Inspector for two years. In those circumstances, the learned Judge concluded that the respondent was entitled to the relief as sought for in the

writ petition and directed the appellants herein to promote the respondent to the post of Deputy Tahsildar from the date on which, his immediate junior was promoted with all consequential benefits.

9. Heard the learned Special Government Pleader appearing for the appellants and the learned counsel appearing for the respondent.

10. The learned counsel appearing for the appellants reiterated his submissions on the basis of the contents found in the counter affidavit filed before the learned Judge, which were dealt with in detail by him.

11. The learned counsel appearing for the respondent reiterated his submissions that were put forth before the learned Judge, stating that for no fault of the respondent, he was denied promotion as Assistant at appropriate time and because of the belated order of promotion, he was omitted to be included in the panel for the promotion to the post of Deputy Tahsildar for the year 2009 and that for the default or fault committed by the Department, the respondent cannot be allowed to suffer and it would cause great prejudice and have serious financial implications on his career. In fact, had the Department effected promotion as Assistant and Revenue Inspector at appropriate time, the respondent's name would have been certainly included in the panel drawn in the year 2009 itself.

12. After having gone through the order passed by the learned Judge and the material on record, we find that the order passed by the learned Judge is well founded and it does not suffer from any infirmity, calling for our interference.

Therefore, the Writ Appeal fails and the same is dismissed. There shall be no order as to costs.

-sd/-
Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

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To

1 The Secretary to Government

Revenue Department fort st.George,chennai-600 009

2 The Additional Chief Secretary

commissioner of Revenue Administration
Chepauk, chennai-600 005.

3 The District Collector,
Krishnagiri,

4 The District Revenue Officer,
Krishnagiri

+1 cc to MR.S.VIJAYA KUMAR Advocate SR.NO. 70187

+1 cc to the Government Pleader SR.NO. 70963

W.A.No.1546 of 2014

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