

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 01.03.2016

PRONOUNCED ON : 18-04-2016

Coram

THE HONOURABLE MR. JUSTICE R. SUBBIAH

Writ Petition No. 23896 of 2015

V. Govindarajan

.. Petitioner

Versus

1. The Inspector General of Registration
Chennai - 600 028

2. The Deputy Registrar
(Administration)
Namakkal

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the first respondent in Na.Ka.No.28796/S1/2015 dated 21.07.2015 and quash the same and thereby direct the first respondent to renew the Document Writer's License to the petitioner in License No.A157/95/NMK so as to enable the petitioner to practice the profession of preparing the document.

For Petitioner : Mr. N. Suresh

For Respondents : Mrs. P. Rajalakshmi
Government Advocate

ORDER

The petitioner has come forward with this writ petition challenging the order dated 21.07.2015, whereby the first respondent refused to renew the document writer licence issued to the petitioner, which deprived him to practice such profession of document writer.

2. The petitioner is a document writer by profession and he acquired such skill of writing documents by experience. The petitioner obtained a licence issued by the first respondent in the year 1977. Thereafter, The Tamil Nadu Document Writers Licence Rules, 1982 (hereinafter referred to as The Rules) came into force with effect from 12.04.1982. As per Rule 12 of The Rules, such licence issued to a document writer has to be

renewed once in five years. As far as the petitioner is concerned, he renewed his licence periodically from time to time and lastly, his licence was renewed on 13.01.1997 with effect from 01.01.1997 and it has its validity till 31.12.2002. However, even before expiry of the licence, the petitioner got selected and appointed to the post of Village Administrative Officer in Tiruchengode Taluk and therefore, he could not renew the licence. According to the petitioner, he retired from his service on 31.08.2014. After his retirement, as there is no embargo for the petitioner to carry on his profession of document writer, he submitted an application to the second respondent and sought for renewal of his licence by remitting the necessary fee. The application submitted by the petitioner was forwarded by the second respondent to the first respondent on 08.12.2014 seeking clarification as to whether the renewal of document writer's licence can be granted and/or renewed in favour of the petitioner who retired from government service and in receipt of pension.

3. According to the petitioner, his retirement from government service or receipt of pension has nothing to do with the renewal of licence. Therefore, challenging the letter dated 08.12.2014 of the second respondent, the petitioner filed WP No. 1460 of 2015. By an order dated 22.01.2015, this Court by referring to the profession of Advocates who after their retirement from government service used to practice law, issued a direction to the first respondent to issue appropriate clarification to the second respondent within eight weeks. In the order dated 22.01.2015, it was also observed that there is no statutory prohibition for renewing the licence in favour of the petitioner. In spite of such direction issued by this Court, the first respondent sent a communication dated 10.02.2015 to the second respondent purported to be a clarification stating that there is no provision to renew the licence in favour of the petitioner. Challenging the same, the petitioner filed yet another writ petition in WP No. 11531 of 2015. By order dated 21.04.2015, this Court passed an order in WP No. 11531 of 2015 directing the first respondent to take note of the earlier order dated 22.01.2015 passed in WP No. 1460 of 2015 filed by the petitioner and to pass orders thereon within a period of six weeks.

4. Pursuant to the order dated 22.01.2015 in WP No. 1460 of 2015, the petitioner was called upon to appear before the first respondent for an enquiry. Accordingly, on 14.07.2015, the petitioner appeared before the first respondent and submitted a representation dated 13.07.2015 along with the copies of the orders passed by this Court and the earlier representation dated 26.03.2015. Thereafter, the first respondent has passed the impugned order dated 21.07.2015, which was received by the petitioner on 28.07.2015. As per the

impugned order, the first respondent concluded that there is a delay of 14 years in renewing the licence and it is contrary to Rule 12.

5. The learned counsel appearing for the petitioner would submit that the petitioner could not renew the licence in view of his selection and appointment as a Village Administrative Officer. The non-renewal of the licence within a period of five years as provided under Rule 12 is beyond the control of the petitioner. In any event, there is no embargo for renewal of the licence when it is shown that the petitioner has been appointed in the Government Service which led to the non-renewal of the licence for a period of about 14 years. In the absence of any embargo or prohibition in the Rules, the first respondent is not justified in passing the impugned order.

6. The learned Government Advocate appearing for the respondents would support and justify the passing of the impugned order by contending that Rule 12 specifically contemplate that a licence issued by the licensing authority has to be renewed within a period of five years. In the present case, admittedly, the petitioner did not renew the licence issued to him within such time. Further, as per Rule 13 application for renewal shall be submitted in form B along with the registers, income and expenditure records from the date of licence till the date of submission of application for renewal. In this case, the petitioner has not satisfied the condition relating to Rule 13 and therefore, the learned Government Advocate justified the impugned order passed by the first respondent.

7. I heard the counsel for the petitioner as well as the learned Government Advocate. I have carefully examined the documents made available. Admittedly, the petitioner was issued with a document writer licence and it was renewed by him from time to time. Lastly, the licence issued to the petitioner was renewed on 13.01.1997 with effect from 01.01.1997 and it has its validity till 31.12.2002. However, even before the expiry of the licence, the petitioner was selected and appointed as Village Administrative Officer in the year 2000. Therefore, after such appointment, the petitioner could not renew his licence.

8. Before dealing with the rival contentions, it is necessary to state that Rule 5 of the Rules prescribes conditions which debar or disqualify a person from obtaining the licence. Rule 5 only stipulates that a licence could not be renewed in favour of a minor, an unsound person, a person who retired from service of the government owing to misconduct etc., However, as per Rule 5, there is no embargo or prohibition for issuing or renewing a licence in favour of a person who retired

from government service, in whose favour a licence was renewed earlier. Rule 8 stipulates the procedure for applying a document writer licence. Rule 12 contemplates the period during which a licence issued under this Rule will be valid. As per Rule 12, every licence granted or renewed shall be valid for five years upto 31st December of the fifth year in which the licence was issued or renewed. As per Rule 13 (a), an application seeking renewal shall be made to the licensing authority in Form B by enclosing the required documents which are indicated in Form B. Rule 16 contemplates suspension and cancellation of the licence for proved misconduct after conducting necessary enquiry in this regard. Thus, it is evident from the Rules that there is no prohibition or embargo for renewing the licence in favour of the petitioner.

9. As far as Rule 13 is concerned, it is true an applicant seeking renewal of licence has to submit an application for renewal in the prescribed form B along with enclosures such as registration records, income and expenditure statement, receipts etc., In the present case, even during the year 2000, the petitioner was appointed as Village Administrative Officer and there is no scope for him to renew the licence any further. After rendering 14 years of service as Village Administrative Officer, he retired from his service on 31.08.2014. After retirement, the petitioner has submitted an application and remitted the requisite fee for renewing the licence. Thus, it could be seen that the non-submission of forms and records, as required under Rule 13 in Form B is beyond the control of the petitioner. The petitioner could not submit those documents inasmuch as he did not possess those documents. In other words, the petitioner did not utilise the document writer licence after his appointment as Village Administrative Officer. In such circumstances, after retirement, the petitioner submitted an application for renewal and the respondents ought to have considered it and renewed his licence without insisting for production of the documents mentioned in form B under Rule 13 as a condition precedent for renewing the licence.

10. In this context, it has to be stated that earlier the petitioner filed WP No. 1460 of 2015 challenging the order of the second respondent seeking for a clarification to the first respondent for renewing the licence. In the order dated 22.01.2015, this Court, while disposing of the writ petition, observed as follows:-

"3. Learned counsel for the petitioner submitted that under the provisions of the Tamil Nadu Document Writers Licence Rules, 1982, there is no disqualification seeking for renewal. Further, the learned counsel for the petitioner would submit that several persons who had acquired the Law Degree and

enrolled before the Bar Council of Tamil Nadu after obtaining the Government appointment have suspended their practice and joined the Government Service and after their retirement from the Government Service, they approached the Bar Council and renewed their enrolment and are now practicing as advocates before this Court. Therefore, it is submitted that when the rules do not place any embargo for revival of the document writer's licence, the question for seeking clarification does not arise.

4. As pointed out earlier, the impugned proceedings is only an inter-departmental communication and probably, the second respondent has genuine doubt whether he can exercise his powers. In any event, the first respondent has been addressed in this matter and therefore, it is appropriate for the first respondent to issue appropriate clarification in this regard and while doing so, it shall be borne in mind that there is no statutory rules providing prohibition for such renewal."

11. The comparison made by this Court with respect to renewal of a licence by a law degree holder after his retirement from government service is relevant for this case. In this case, the petitioner, after his retirement from government service as Village Administrative Officer, seeks for renewal of his document writer licence. There is no embargo or prohibition to renew licence after retirement of the petitioner from government service. While so, refusing to renew the licence in favour of the petitioner would offend Article 14 of The Constitution of India. Further, insisting the petitioner to produce the documents and records along with form B in compliance with Rule 13 does not arise in this case. When the petitioner did not make use of the licence issued to him for about 14 years i.e., soon after his appointment to the post of Village Administrative Officer, he cannot be expected to produce those documents required for renewal of his licence. It is also to be mentioned here that the first respondent refused to renew the licence on various grounds mentioned in the impugned order not owing to misconduct on the part of the petitioner as contemplated under Rule 16. In other words, during the subsistence of the licence issued in favour of the petitioner from the year 1977 till 2000, there is nothing on record to show that the petitioner indulged in any misconduct. Further, the petitioner retired from his service on attaining the age of superannuation and not due to misconduct, a prohibition made in Rule 5 (h). At any rate, when there is no prohibition in the Rule for renewing the licence in favour of the petitioner, the order passed by the first respondent is without authority of law. The delay on the part of the petitioner in submitting the

application for renewal is owing to his employment with Government as Village Administrative Officer and such delay is not wilful or wanton. In such circumstances, in my considered view, the order passed by the first respondent deserves to be set aside.

12. In the result, the writ petition is allowed. No costs. The first respondent is directed to renew the document writer's licence in favour of the petitioner as expeditiously as possible.
rsh

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Inspector General of Registration
Chennai - 600 028

2. The Deputy Registrar
(Administration)
Namakkal

+ 1 cc to M/s.N.Suresh, Advocate SR 24377

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prk28/4

WP No. 23896 of 2015

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