

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.26385 of 2016
and
W.M.P.No.22617 of 2016

B. Raghavan .. Petitioner

Versus

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Revenue Department,
Fort St. George, Chennai - 600 009.
 2. The State of Tamil Nadu,
Rep. by its Secretary to Government,
P & AR Department,
Fort St. George, Chennai - 600 009.
 3. The Special Commissioner and
Commissioner of Revenue Administration,
Chepuak, Chennai - 600 005.
 4. The District Collector,
Nilgiris District,
The Nilgiris.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the first respondent to relax Sub Rule 5(3) of Annexure V to Rule 34 of the Tamil Nadu Ministerial Service Rules based on the recommendations of the 3rd respondent vide proceedings in Na.Ka.Work 4(1) / 2634 / 2008 dated 14.03.2014 and 4th respondent vide proceedings in Na.Ka. A2.1864/2008 dated 18.10.2013 so as to empanel the petitioner in 2007 Deputy Tahsildar list at Serial No.7 above the name of A.H.Dharuman; empanel the petitioner in 2010 Thasildhar List at Serial No.19 above the name of A.H.Dharuman and accordingly promote him as Thasildhar as per his seniority retrospectively with notional benefits; and include the petitioner in the panel of Deputy Collector's list in G.O.(Ms) No.75 dated 10.02.2016 at Serial No.108 above A.Visalakshi.

For Petitioner : Mr.Palani Selvaraj
For Respondents : Mr.A.Kumar,
Special Government Pleader

ORDER

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

2. The petitioner joined as Telex Operator in the fourth respondent's Office on 15.03.1982. Subsequently, the post of Telex Operator was merged with the post of Typist vide G.O.Ms.No.1851, dated 24.10.1989. The petitioner's seniority was therefore fixed in the cadre of typist as per the proceedings of the fourth respondent dated 23.01.1990. The petitioner's name was included in the panel drawn for promotion to the post of Assistant for the year 1992 vide Notification dated 08.04.1993 issued by the fourth respondent and he was also promoted to the post of Assistant. Now, he has completed 34 years of service in the Revenue Department.

3. According to the petitioner, his juniors were promoted as Deputy Tahsildars but till date, he is working as Assistant. Further, other persons who have joined the service as Telex Operators along with the petitioners in other Districts were already promoted to the cadre of Deputy Tahsildars. Therefore, the petitioner made a representation dated 14.11.2011 to the respondents 1 and 3 requesting them to include his name in the seniority list of Deputy Tahsildar for the year 2007 above the name of his junior one Dharuman at Serial No.8, to relax the Rules for training for Tahsildar, thereby, to include his name in the list of promotion to the post of Tahsildar for the year 2010 above the said Dharuman at Serial No.18 and also to pass orders promoting him as Tahsildar. Despite the said representation, the respondent has not passed any order. Therefore, the petitioner filed a writ petition in W.P. No. 11684 of 2012 for a Mandamus, directing the respondents to consider and pass orders on the representation dated 14.11.2011 given by him. By order dated 24.04.2012, this Court directed the first respondent to pass order on the representation of the petitioner on merits, within a period of four months from the date of receipt of a copy of the order.

4. According to the petitioner, pursuant to the direction of this Court, a proposal was sent to the Government by the third respondent. Based on the same, the first respondent sent a letter dated 04.06.2013 to the third respondent stating that since the petitioner has been continuously working as Assistant for all these years, there is no requirement to relax Rule 9(c)

of the Tamil Nadu Ministerial Service Rules and therefore, the Government directed the third respondent to regularize the service of the petitioner from the date of entry into service as Assistant. Further, if he is otherwise qualified the third respondent was directed to take steps to include his name in the panel for Deputy Tahsildar. Thereafter, the fourth respondent, vide proceedings dated 18.10.2013 informed the 3rd respondent that the petitioner has passed all the tests and since he has not completed the Revenue Inspector Training, order has to be obtained from the Government to relax Sub Rule 5(3) of Annexure V to Rule 34 of the Tamil Nadu Ministerial Service Rules so as to include his name in the list for promotion to the post of Deputy Tahsildar. Thereafter, the third respondent, by proceedings dated 14.03.2014 made recommendations to the 1st respondent to relax the Rule so as to empanel the petitioner to get his name included in the panel for promotion to the post of Deputy Tahsildar. Since no order has been passed by the first respondent, the petitioner submitted a representation dated 22.08.2014 to the first respondent, requesting him to pass necessary orders for relaxing the necessary Rules so as to enable him to avail promotions as per the seniority retrospectively with notional benefits.

5. Thereafter, the third respondent vide letter dated 03.03.2015 directed the fourth respondent to send the report as to when the petitioner undergone the Revenue Inspector Training along with service records and other documents. According to the petitioner, he was not sent for Revenue Inspector's Training. The first respondent, vide letter dated 29.06.2015, directed the third respondent to send the details as to whether the petitioner is qualified to be empanelled in Deputy Tahsildar list for relaxing the Rule and whether he has passed all training and departmental examinations. In turn, the fourth respondent vide proceedings dated 03.09.2015, produced all the parties as required by the respondents 1 and 3. Thereafter, the first respondent, vide letter dated 04.01.2016, asked the 4th respondent as to whether any persons junior to the petitioner has been empanelled in 2007 Deputy Tahsildar List and sent the seniority list of the year 2007. In response to the same, the fourth respondent vide proceedings dated 07.03.2016 produced the Deputy Tahsildar list of the year 2007, which clearly explicit that the petitioner's junior A.H.Dharuman is found place at serial No.7 and one A.Visalakshi at serial no.8 and also Assistant List and list of Telex Operators. Thereafter, there was no response from the respondents. Hence, the petitioner made a representation dated 17.06.2016. Till date, no order has been passed by the respondents. Therefore, the petitioner has filed the present writ petition.

6. The learned counsel appearing for the petitioner submitted that the respondents may be directed to consider the representation of the petitioner dated 17.06.2016 and pass orders thereon, as the relaxation is pending for quite long time.

7. The learned Special Government Pleader would only contend that the Government is the authority to pass orders for relaxation of Rule.

8. As rightly pointed out by the petitioner, even though recommendations has been made by the competent authority for relaxation of Rule, it is pending before the Government for quite long time. Considering the facts of the case and as the relaxation is pending for quite long time, this Court directs the first respondent to consider the representation of the petitioner dated 17.06.2016 and pass orders thereon, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ogy
To

1. The Principal Secretary to Government,
Revenue Department, Fort St. George, Chennai - 600 009.
2. The Secretary to Government,
P & AR Department,
Fort St. George, Chennai - 600 009.
3. The Special Commissioner and
Commissioner of Revenue Administration,
Chepuak, Chennai - 600 005.

4. The District Collector,
Nilgiris District,
The Nilgiris.

+1 CC to M/s. Palani Selvaraj, Sr.No.42683

+1 CC to Govt., Pleader, Sr.No.43074

W.P.No.26385 of 2016

AVR (CO)

MD : 16/09/2016



WEB COPY