

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2016

CORAM

THE HONOURABLE MR. **JUSTICE R.SUBBIAH**

Writ Petition No.31309 of 2016

A.Rajamanickam

... Petitioner

vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Govt.,
Revenue Department,
Secretariat, Chennai-9.

2.The Principal Secretary /
Commissioner of Revenue
Administration,
Chepauk, Chennai-5.

3.The District Collector,
Dharmapuri District,
Dharmapuri.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent to give promotion as Tahsildar from the year 2005 and Deputy Collector from the year 2009 in the light of W.P.No.34076 of 2006 ordered on 11.1.2010 by considering the representation made by the petitioner dated 15.7.2016 fixing outer time limit and confer all the consequential benefits.

For Petitioner : Mr.P.Ganesan
For Respondents : Mr.N.Srinivasan,
Addl. Govt. Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to give promotion as Tahsildar from the year 2005 and Deputy Collector from the year 2009 in the light of W.P.No.34076 of 2006 ordered on 11.1.2010 by considering his representation dated 15.7.2016 fixing outer time limit and confer all the consequential benefits.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is a physically handicapped person. He joined service as Junior Assistant on 10.2.1981. Thereafter, he was promoted as Assistant in the year 1984. The next avenue of promotion is the post of Deputy Tahsildar and the petitioner was fully qualified to the said post for the year 1996-1997. However, his name was not included in the panel for the year 1996-1997. Hence, he

made a representation dated 3.4.2000 to the second respondent requesting him to consider his name for inclusion in the panel for promotion to the post of Deputy Tahsildar for the year 1996-1997 under physically handicapped quota. But, the second respondent rejected his claim on 31.3.2001, on the ground that Rule 22 of Tamil Nadu State and Subordinate Service Rules will not apply and hence, he was not entitled to seek inclusion of his name in the panel of Assistants for promotion to the post of Deputy Tahsildar for the year 1997 under the physically handicapped quota.

(b) Aggrieved over the same, the petitioner filed O.A.No.4340 of 2001 before the Tamil Nadu Administrative Tribunal in so far as it denied the benefit conferred on the physically handicapped persons. The said OA came to be transferred to this Court and renumbered as W.P.No.4482 of 2007. Pending the said writ petition, the petitioner was given promotion as Deputy Tahsildar in the year 2007. This Court by order dated 20.7.2011 allowed the said writ petition and directed the first respondent to include his name in the panel of Assistants fit for promotion to the post of Deputy Tahsildar for the year 1996-1997 under physically handicapped quota and also grant promotion as Deputy Tahsildar from the date on which others were promoted with all consequential benefits.

(c) In the meanwhile, the petitioner retired from service on 31.7.2011 in the cadre of Deputy Tahsildar itself. Though this Court passed an order in W.P.No.4482 of 2007 as early as on 20.7.2011, the respondents have not complied with the said order. Hence, he filed a contempt petition before this Court in Cont.P.No.846 of 2015 and when the contempt petition came up for hearing on 30.9.2015, the third respondent issued a proceeding dated 29.5.2015 by including the petitioner's name in Sl.No.7(a)(i.e). However, the respondents did not give further cadre of seniority as well as promotion. As per the proceedings of the third respondent, the petitioner's junior S.Natarajan has been included in the panel for promotion to the post of Tahsildar for the year 2005 and assigned as Sl.No.7 and the petitioner's name should be included in Sl.No.A.

(d) The further notional promotional post is Deputy Collector for the year 2008-09 onwards. As per G.O.Ms.No.115, Revenue Department dated 3.4.2009, one A.M.Sankaran has been included in the Deputy Collector panel for the year 2008-09 and assigned Sl.No.54 and the petitioner's name should have been included in the said list and he assigned Sl.No.53A, Turn No.74 and rotation-1 under orthopedically handicapped reservation quota, below one N.Geetha

and above A.M.Sankaran and they were officiated as Deputy Collector from 3.4.2009 onwards. Accordingly, the petitioner made a representation dated 6.4.2006 to the respondents to provide the notional promotion. Since the same was not considered, he filed a writ petition in W.P.No.17692 of 2016 before this Court, and this Court directed the respondents to consider his representation.

(e) If the respondents included his name in the Deputy Tahsildar panel for the year 1996-97, he would get promotion to the post of Deputy Tahsildar. Therefore, the petitioner made a representation dated 15.7.2016 to the respondents requesting them to give further promotion as Tahsildar from the year 2005 and Deputy Collector from the year 2008. However, till date, no orders were passed on his representation. Hence, left with no other alternative, the petitioner has come up with the present writ petition.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that in identical situation, this Court by an order dated 11.1.2010 in W.P.No.34076 of 2006, has directed the respondents therein to promote the petitioner therein. Hence, following the same, similar order could be passed.

5. I have also heard the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the first respondent to consider the representation of the petitioner dated 15.7.2016 seeking promotion as Tahsildar from the year 2005 and Deputy Collector from the year 2009 and pass appropriate orders, on merits and in accordance with law and also in the light of the order of this Court dated 11.1.2010 made in W.P.No.34076 of 2006, within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

03.10.2016

Index:Yes/No
sbi

To

1.The Secretary to Govt.,
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Revenue Department,
Secretariat, Chennai-9.

2.The Principal Secretary /
Commissioner of Revenue
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Chepauk, Chennai-5.

3.The District Collector,
Dharmapuri District,
Dharmapuri.

R.SUBBIAH, J

sbi

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DATED: 3.10.2016