

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.41065 of 2016

K.Balakrishnan ... Petitioner

Vs

- 1 The District Revenue Officer
Cuddalore District Cuddalore.
 - 2 The Revenue Divisional Officer
Virudhachalam Cuddalore District.
 - 3 The Tahsildar
Virudhachalam Cuddalore District.
- ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the 1st respondent to consider and pass appropriate order on petitioner, s representation dated 6.12.2013 within a reasonable time.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.K.Dhananjayan,
Spl.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 consider and pass appropriate order on his representation dated 6.12.2013 within a reasonable time.

3. It is the case of the petitioner that he was appointed as Menial by the Tahsildar, Virudhachalam, vide proceedings dated 7.9.1988 in Vayalur Village, on permanent

basis. While so, one Appasamy filed an appeal against the petitioner's appointment, to the Revenue Divisional Officer, Virudhachalam, who in turn, vide proceedings dated 17.9.1990, cancelled his appointment and ordered for fresh recruitment. Aggrieved over the same, the petitioner preferred a revision before the first respondent on 24.9.1990 and the first respondent had stayed the said order and allowed the petitioner to continue to work. However, by proceedings dated 5.12.1991, the first respondent rejected the petitioner's revision by confirming the order of cancellation. Aggrieved over the same, the petitioner filed O.A.No.1797 of 1992 before the Tamil Nadu Administrative Tribunal and the tribunal, by judgment dated 11.2.2003, held that the cancellation of his appointment is not correct and directed the respondents to consider his appointment in future vacancy. Pursuant to the said order, the second respondent sent a communication dated 3.4.2003 to the first respondent stating that the post in which the petitioner was occupying, still remains vacant. However, the first respondent, vide communication dated 16.4.2003 informed that there is a ban for recruitment and his claim could be considered only after lifting of the ban. Thereafter, since there is no progress, the petitioner approached this Court by filing a writ petition in W.P.No.33984 of 2005 and this Court by order dated 24.10.2005, directed the respondents to consider his claim in existing vacancy within 12 weeks. However, the petitioner's claim has been considered belatedly and he was appointed only on 30.5.2008. Hence, he sent a representation dated 6.12.2013 to the respondents requesting them to consider the earlier service rendered by him from 7.9.1988 to 10.3.1992 for pensionary benefits and the period from 10.3.1992 to 30.5.2008 to be treated as break in service and from 11.2.2003 to 30.5.2008 to be treated as duty period by relaxing the rules. Since the said representation was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents.

5. 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 petitioner to send a fresh representation along with a copy of this order to the third respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the third respondent is directed to consider the said representation of the petitioner for considering the earlier service rendered by him from 7.9.1988 to 10.3.1992 for pensionary benefits and the period from 10.3.1992 to 30.5.2008 to be treated as break in service and from 11.2.2003 to 30.5.2008 to be treated as duty period by

relaxing the rules, and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

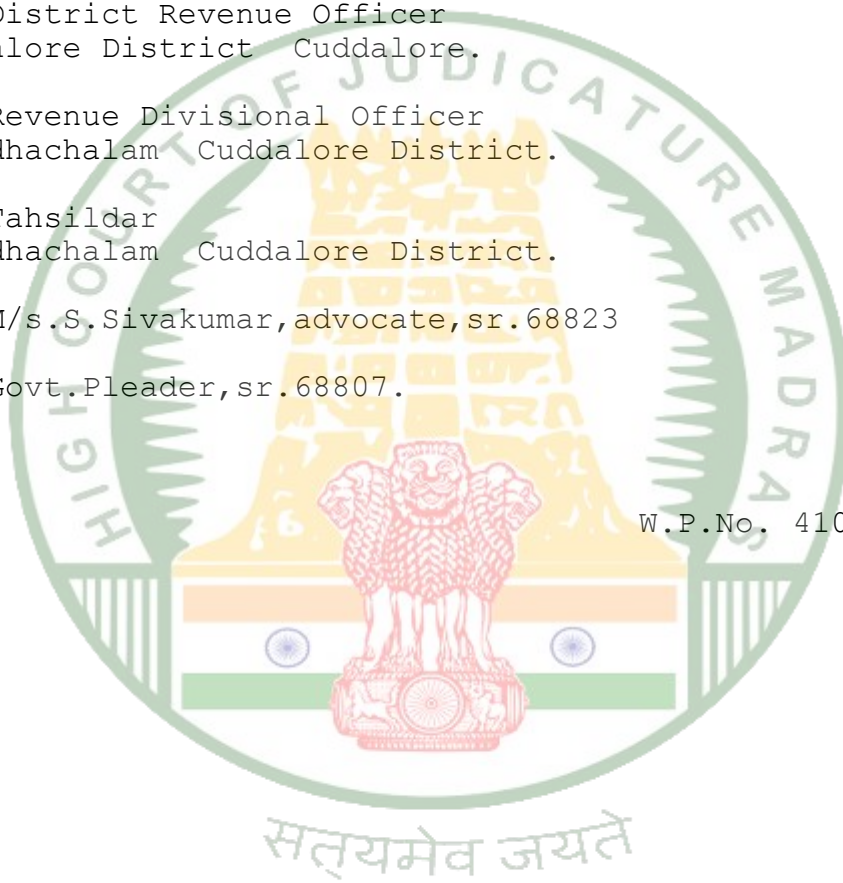
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+1 cc to M/s.S.Sivakumar,advocate,sr.68823

+1 cc to Govt.Pleader,sr.68807.

mv(co)
krd 15/12

W.P.No. 41065 of 2016



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