IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.7849 of 2016

M.Jayapalan .. Petitioner

-vs-

1. The Additional Chief Secretary to Government cum Commissioner of Land Administration
   Chepauk
   Chennai 600 005

2. The District Collecor
   Tiruvannamalai
   Tiruvannamalai District .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to grant relaxation of Rule 7(a) of Tamil Nadu State and Subordinate Service Rules for the post of Deputy Thasildar and consequently direct the respondents to grant notional promotion of Deputy Tahsildar and to pay all benefits accrued therefrom in the case of the petitioner.

For Petitioner :: Mr.S.Udayakumar
For Respondents:: Mr.A.Kumar
Special Government Pleader

ORDER

This writ petition has been filed by Mr.M.Jayapalan, who retired as Fair Copy Superintendent at Collectorate, Tiruvannamalai on 31.5.13, seeking issuance of a writ of mandamus, directing the respondents to grant relaxation of Rule 7(a) of the Tamil Nadu State and Subordinate Service Rules for the post of Deputy Thasildar with a consequential direction to the respondents to grant him notional promotion in the post of Deputy Tahsildar with all the service benefits.

2. Learned counsel for the petitioner submitted that the petitioner, after joining the Revenue Department as Junior Assistant on 23.4.83, served in the said post from 23.4.83 to

13.12.94 in the Taluk office. Thereafter, he worked as Assistant in the Divisional office, Tiruvannamalai from 14.12.94 to 31.5.95. After sometime, he was transferred as Assistant/Revenue Inspector to the Taluk office, Polur and he worked in the said place from 9.8.95 to 28.2.09. Subsequently, he worked as Fair Copy Superintendent/Accountant at Tiruvannamalai Collectorate from 1.3.2009 till he reached the age of superannuation on 31.5.13. In this background, his grievance is that, while in service, he requested to consider him to the post of Deputy Tahsildar by relaxing Rule 7(a) of the Tamil Nadu (Revenue) Subordinate Service Rules. Finally, based on various representations, the Joint Commissioner of Revenue Administration, in his letter dated 11.7.12, recommended his case to the Government. But the Government kept the recommendation pending endlessly without passing any order to relax the said rule in favour of the petitioner. Since there was no response, the petitioner approached the Public Information Officer, Revenue Department to furnish the reason as to why the petitioner's case was not considered on the basis of the recommendation made by the Joint Commissioner of Revenue Administration. Again finding no response, he approached the appellate authority/Tamil Nadu Information Commission and by an order dated 11.12.14, the Information Commissioner had directed the authority to furnish the requisite information sought for by the petitioner within thirty days. However, in spite of the said order, the Public Information Officer, Revenue Department failed to furnish the information sought for.

3. Adding further, the learned counsel submitted that when similarly placed persons were granted relaxation under Rule 7(a) of the Tamil Nadu (Revenue) Subordinate Service Rules by the Government Orders dated 6.6.13, 7.2.14 and 9.6.14 in the case of Mr.M.Palani, Mr.K.Thirunavukkarasu and Mr.K.Asai Thambi respectively, who were all working as Assistants in the Revenue Department at Tiruvannamalai district, the respondents cannot refuse to give the same benefit to the petitioner. He also submitted that the only requirement the petitioner had to satisfy is that he should have attempted to clear the departmental examinations conducted for the post of Deputy Tahsildar at least on five occasions. Similarly, the petitioner in his representations has specifically mentioned that although he wrote the examination on all the five occasions during December, 2007, May, 2008, December, 2008, May, 2009 & December, 2009, he was not able to pass the test. Therefore only, the Joint Commissioner of Revenue Administration, satisfying with the case of the petitioner, had recommended to the Government vide the letter dated 11.7.12. But the Government alone have wrongly kept the file pending, as a result he retired from service in the post of Fair Copy Superintendent at the Tiruvannamalai Collectorate with effect from 31.5.13. Had the first respondent considered the recommendation given by the

Joint Commissioner of Revenue Administration before his retirement granting relaxation as were given to similarly placed persons, the petitioner would have retired as Deputy Tahsildar with higher monetary service benefits. Since the first respondent has not acted on the recommendation made by the Joint Commissioner of Revenue Administration, he is put to great prejudice. Therefore, the learned counsel sought for a direction to the respondents to grant relaxation of Rule 7(a) as stated above.

4. But this Court is not able to agree with the contentions made by the learned counsel for the petitioner. The reason is that it is not mandatory on the part of the first respondent to accept the recommendation given by the Joint Commissioner of Revenue Administration in each case. No doubt, in the present case, the petitioner has failed to pass the requisite test, although he attempted on five occasions continuously. But the G.O.Ms.No.1398, General (Pers.A) dated 29.5.72 contemplated three conditions for the grant of relaxation, which read as under:-

> "(1) Government servant should not be below 50 years of age.
>
> (2) He should have attempted to clear the examinations at least for five times.
>
> (3) For getting such relaxation, his service records should be satisfactory."

Subsequently, in G.O.Ms.No.1120, Personnel and Administrative Reforms Department dated 30.10.84, the aforementioned conditions have been modified as follows:-

> "(1) Concerned Government servant should not be below 53 years of age.
>
> (2) He should have attempted to clear the examinations at least for five times. The said particulars should be evident from the service records or through the Hall Tickets to be furnished by the concerned Government servant.
>
> (3) For getting such relaxation, his service records should be satisfactory."

5. In the present case, it is not known how the Joint Commissioner recommended for the grant of relaxation when the petitioner had crossed the upper age limit of 53 years. Therefore, for this reason also, in my considered opinion, the first respondent has not come forward to accept the

recommendation made by the Joint Commissioner of Revenue Administration. In any event, the petitioner retired from service during the end of May, 2013. Hence, this Court is not inclined to issue the direction as sought for by the petitioner. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.No.6990 of 2016 is also dismissed. No costs.
ss

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Additional Chief Secretary to Government
   cum Commissioner of Land Administration
   Chepauk
   Chennai 600 005

2. The District Collecor
   Tiruvannamalai
   Tiruvannamalai District

+ 1 cc to Mr.S.Udayakumar Advocate, SR 13343

+ 1 cc to Govt.Pleader, High Court, Madras SR 13818

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