



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2016

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.20355 of 2016

WEB COPY

V.Abdul Nazar

: Petitioner

Vs.

1. The District Collector,
Theni, Theni District.

2. The Forest Settlement Officer,
O/o.The Forest Settlement Office,
Bodinayakkanur, Aundipatti Taluk,
Theni District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to include the name of the petitioner in the panel of Revenue Inspectors fit for promotion to the post of Deputy Tahsildhar for the year 2016-2017 in the light of letter forwarded by the second respondent in his proceedings dated 12.09.2016 and by considering the petitioner's representation dated 12.09.2016 within the period that may be stipulated by this Court.

For Petitioner

: Mr.C.Venkatesh Kumar
M/s.Ajmal Associates

For Respondents

: Mr.V.R.Shanmuganathan,
Special Government Pleader.

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus, directing the first respondent to include the name of the petitioner in the panel of Revenue Inspectors fit for promotion to the post of Deputy Tahsildhar for the year 2016-2017 in the light of the letter forwarded by the second respondent, in his proceedings dated 12.09.2016, and by considering the petitioner's representation dated 12.09.2016.

2.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who took notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

3.The case of the petitioner is that the petitioner was initially appointed as Junior Assistant on compassionate ground as Junior Assistant in the South Taluk Office, Madurai and subsequently he was promoted as Assistant on 28.03.2007 at Taluk Office, Aundipatty, Theni District and now he is working as Special



Revenue Inspector at Forest Settlement Office, Bodinayakkanur, Theni District. As per the Tamil Nadu Revenue Subordinate Service Rules, the qualification prescribed for promotion to the post of Deputy Tahsildar is mentioned in Rule 7, Annexure III and the same reads as follows:

"Deputy Tahsildar: (A) Before the inclusion of his name in the approved candidates, the candidates-

(i) must have passed the following tests:-

(1) The Revenue Tests, Parts I, II and III.

(2) The Criminal Judicial Test and

(3) the Account Test for Subordinate Officers Part-I and II.

(iii) (a) Must have rendered satisfactory service for a period of not less than two years on duty as Revenue Inspector in charge of a Firka and must have passed the examination in the maintenance of revenue records and registration".

The petitioner has satisfied the qualification criteria for promotion and his name has been included in the panel of Revenue Inspector fit for promotion to the post of Deputy Tahsildar for the year 2015-16 and his name stands in Serial No.1 in the said panel. The petitioner has undergone surgery in his eyes and therefore his officials requested him to temporarily relinquish his promotion for one year so as to accommodate one Mr. Sanjay Gandhi, whose name stands in Serial No.6 and accordingly, he has relinquished his promotion temporarily for a period of one year i.e., for 2015-2016. Thereafter, he made a request to the respondents to include his name in the panel for the year 2016-2017. But, the first respondent has orally informed that since he has relinquished his promotion, he is not entitled for promotion for a period of three years as per Rule 47 of the Tamil Nadu State and Subordinate Service Rules and the same reads as follows:

"47. Relinquishment of rights by members:-

(1) ...

(2) Relinquishment of a right or privilege for a temporary period shall be accepted if it is made for a period of not less than three years subject to the condition that after the expiry of the said period, the claim of the right or privilege relinquished will be with reference to the state of affairs that exist on the date of expiry of period of relinquishment and without restoration of original seniority. If relinquishment of right or privilege is made permanently and is accepted subsequent claim of the relinquished rights of privileges shall not be entertained".

<https://hcmr.judges.org.in/cases> The first respondent also made a representation to the first respondent through second respondent on 12.09.2016 and the proposal has also been forwarded by the second respondent to the first respondent.



But, the first respondent has not taken any steps. Therefore, this writ petition has been filed.

4. The learned counsel for the petitioner would submit that the petitioner has relinquished his claim for promotion only for a period of one year and therefore Rule 47 of the Tamil Nadu State and Subordinate Service Rules, has no application to the case of the petitioner and the petitioner has also made a representation to the first respondent through the second respondent on 12.09.2016, requesting him to include his name in the panel of Revenue Inspectors fit for promotion to the post of Deputy Tahsildar for the year 2016-17 and a proposal has also been forwarded by the second respondent to the first respondent, which is pending consideration and this writ petition has been filed seeking to direct the first respondent to consider the proposal, which was forwarded by the second respondent.

5. The learned Special Government Pleader would submit that it is agreeable for the first respondent to consider the proposal submitted by the second respondent and to pass appropriate orders within a period of two weeks.

6. Recording the submission made by the learned Special Government Pleader for the respondents, the first respondent is directed to consider the proposal submitted by the second respondent and pass orders on merits and in accordance with law, within a period of two weeks, from the date of receipt of a copy of this order.

7. With the above direction, this writ petition is disposed of. No costs.

Sd/
Assistant Registrar (Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Collector, Theni, Theni District.
 2. The Forest Settlement Officer,
O/o. The Forest Settlement Office, Bodinayakkanur,
Aundipatti Taluk, Theni District.
- +1cc to M/S. Ajmal Associates, Advocate in SR.No.63173.
+1cc to Special Government Pleader in SR.No.64194.

smn

ORDER MADE IN
W.P (MD) No.20355 of 2016
24.10.2016