

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2017

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THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.826 of 2014

and

W.M.P.No.1 of 2014

V.Valli Devi

... Petitioner

Vs.

1. Government of Tamil Nadu
Rep by its Secretary, Revenue Department,
Secretariat, Fort St.George,
Chennai 600 009.
 2. The Special Commissioner & Commissioner
of Revenue Administration (Revenue),
Disaster Management and Mitigation Department,
Ezhilagam, Chennai 600 005.
 3. The District Collector,
Salem District, Salem.
- ... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders passed by the second and third respondent herein, (a) The order dated 13.11.2008, bearing Ref.No.Na.Ka.Service3 (2)/4061/2008, passed by the second respondent herein and (b) The order passed by the third respondent herein dated 27.12.2007, bearing Ref.No.PDL30/07 (A7) and quash the same and consequently, direct the respondents to promote the petitioner as Deputy Tahsildar from 15.09.2007, onwards with all service and monetary benefits.

For Petitioner : Mr.Ilanthiraiyan for
M/s.Sai Bharath and Ilan

For Respondents : Mr.R.A.S.Senthil Vel,
Additional Government Pleader

O R D E R

Heard Mr.Ilanthiraiyan, learned counsel for the petitioner and Mr.R.A.S.Senthil Vel, learned Additional Government Pleader, appearing for the respondents.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders passed by the second and third respondent herein,

(a) The order dated 13.11.2008, bearing Ref.No.Na.Ka.Service3(2)/4061/2008, passed by the second respondent herein.

(b) The order passed by the third respondent herein, dated 27.12.2007, bearing Ref.No.PDL30/07 (A7) and quash the same and consequently, direct the respondents to promote the petitioner as Deputy Tahsildar from 15.09.2007, onwards with all service and monetary benefits."

The case of the petitioner is as follows:

3. The petitioner was selected by the Tamil Nadu Public Service Commission (TNPSC) under the Combined Sub-ordinate Service-I as Assistant by direct recruitment under the Tamil Nadu Ministerial Services.

4. After being selected, she was posted as Assistant in Trichy District Revenue Unit by order dated 22.09.2001. Her service has come to be regularized in the cadre of Assistant on 01.10.2001 and subsequently, her probation was also declared on 30.09.2003. While working in Trichy, she has sought for mutual transfer to Salem District with co-employee's request, who was working as Assistant at Salem District Revenue Unit. However, her request was considered and she was mutually transferred to Salem District and also joined there as Assistant on 01.06.2006.

5. The petitioner had completed five years of service and also passed all the required departmental tests in order to qualify for promotion to the next higher post of Deputy Tahsildar. A panel was prepared in 2007, for promotion to the post of Deputy Tahsildar, wherein, the name of the petitioner was not included. Therefore, she immediately made a representation dated 31.08.2007, to the third respondent against non-inclusion of her name in the panel. Since the third respondent has rejected her representation, she preferred an appeal before the second respondent. However, as no order was passed by the second respondent, she approached this Court by way of writ petition in W.P.No.22491 of 2008 and this Court vide order dated 16.09.2008, has directed the second respondent to pass orders on merits and in accordance with law, within a period of four weeks, from the date of receipt of a copy of that order.

6. In pursuance of the above direction passed by this Court, the second respondent passed an order dated 13.11.2008, by rejecting the claim of the petitioner only on the ground that she had not completed five years of service in Salem

District Revenue Unit and therefore, her name was not included in the panel of Deputy Tahsildar for the year 2007.

7. In the said circumstances, the petitioner filed a revision petition before the first respondent on 22.12.2008, which was also received by the first respondent. Since no decision was taken on the revision petition, the petitioner was once again constrained to approach this Court in W.P.No.25488 of 2009, this Court once again directed the competent authority to pass orders on the revision petition dated 22.12.2008, within a period of eight weeks from the date of receipt of a copy of that order. According to the petitioner, the revision petition has not been disposed of till date and the said position has also been admitted by the learned Additional Government Pleader, appearing in the matter for the respondents.

8. After the order was passed by this Court on 10.12.2009, in W.P.No.25488 of 2009, number of representations have been addressed by the petitioner to the authorities concerned, for the disposal of the very same revision petition. In the representation, the petitioner has requested to consider the revision petition with reference to G.O.Ms.No.133 of 07.02.1995. However, despite of considerable time, no decision has been taken on the revision petition.

9. The learned counsel for the petitioner would submit that as per the instructions dated 09.06.2006, issued by the Revenue Department, the preferential treatment allowed to the mutually transferred Assistants of the direct recruitment cannot be curtailed and wherever the person is posted, the total number of years of service rendered by them in the cadre of Assistant, ought to be taken into consideration.

10. When the matter is taken up for hearing today, the learned counsel for the petitioner has drawn the attention of this Court to G.O.Ms.No.93, Revenue Department, dated 20.02.2015, which states that in whichever revenue unit the person is posted, the total service rendered by him shall be counted regardless of the place of posting. Unfortunately, inspite of such clear instructions, no order has been passed on the revision petition.

11. Upon notice, the learned Additional Government Pleader entered appearance and filed counter affidavit. In the Counter, it is averred that since the petitioner had not completed five years of service in Salem District Revenue Unit, her name was not originally included in the panel for the year 2007. The learned counsel appearing for the petitioner would submit that the averment cannot stand the test of judicial scrutiny in the terms of the Government instructions and the orders as cited above. While the matter is taken up, the learned Additional Government Pleader would submit that the revision petition, which is pending from 2008,

may be directed to be disposed of within a reasonable time and to instruct the competent authority to do so, if the direction to that effect is issued.

12. Considering the submissions of the learned counsels appearing for the parties, and particularly the submission of the learned Additional Government Pleader, this Court shall issue direction to the second respondent to dispose of the revision petition dated 22.12.2008, on merits and in accordance with law, particularly with reference to the instructions of the Government vide letter dated 09.06.2006, as well as the Government Order (G.O.Ms.No.93, Revenue Department, dated 20.02.2015) within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the first respondent shall pass a detailed order after taking into consideration the relevant Government Order and the instructions and also the averments contained in the affidavit filed in support of the writ petition.

13. With these above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsk

To

1. The Secretary,
Revenue Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai 600 009.
2. The Special Commissioner & Commissioner
of Revenue Administration (Revenue),
Disaster Management and Mitigation Department,
Ezhilagam,
Chennai 600 005.
3. The District Collector,
Salem District, Salem.

+1cc to M/s.Sai, Bharath % Ilan, Advocate, S.R.No.

W.P.No.826 of 2014

CS IV

CA(08/09/2017)

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