

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7835 of 2015 and
M.P.No.1 of 2015

P.Ramalingam

... Petitioner

Vs.

1. Government of Tamil Nadu,
Represented by the Secretary to Government,
Revenue Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Survey and Settlement,
Chepauk, Chennai - 600 005.
3. The Additional Director of Survey and Land Records,
Chepauk, Chennai - 600 005.
4. The Assistant Director of Survey and Land Records,
Dharmapuri.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 4th respondent in Pro.Na.Ka.No.G1/3707/2014-3 dated 10.02.2015, to quash the same and to issue consequential directions to the Respondents to grant time for passing remaining one paper of the Departmental Test and then issue orders declaring satisfactory completion of probation.

For Petitioner : Mr.M.Ravi

For Respondents: Mr.S.Gunasekaran

Additional Government Pleader

O R D E R

The order of discharge issued against the writ petitioner by the fourth respondent in proceedings dated 10.04.2015, is under challenge in this writ petition.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was appointed as Draughtsman in the Department of Survey and Land Records, Dharmapuri. On 21.10.2009 the service of the writ petitioner was regularized. As per the Special Rules the writ petitioner

ought to have passed the Departmental Test prescribed for the post of Draughtsman, within the period of probation in the said post.

3. The learned counsel for the writ petitioner states that the writ petitioner was unable to appear for the Test on one occasion due to certain domestic problems and on account of his illness. However, five years period was granted for completing the Departmental Test in order to get qualified. Rule 26 of the Tamil Nadu State and Subordinate Service Rules deals with termination or extension of probation. Rule 26 (b) (i) & (ii) reads as follows:

"26. Termination or extension of probation-

(a)

(b) (i) If within the period of probation a probationer fails to acquire the special qualifications or to pass the special tests if any, prescribed in the Special Rules or to acquire such other qualifications as may be declared by the State Government or by the appointing authority with the approval of the State Government to be equivalent to the said special qualifications or special tests, the appointing authority shall, by order, discharge him from the service unless the period of probation is extended under rule 28.

(ii) If within the period of probation prescribed in the special rules for the service or within the extended period of probation, as the case may be, a probationer has appeared for any such tests or for any examinations in connection with the acquisition of any such qualifications and the result of the tests or examinations for which he has so appeared are not known before the expiry of such period, he shall continue to be on probation until the publication of the results of the tests or examinations for which he has appeared or the first of them in which he fails to pass, as the case may be.

In case the probationer fails to pass any of the tests or examinations for which he has so appeared, the appointing authority shall, by order, discharge him from the service.

*Explanation - The maximum period upto which the probation of a Government

servant shall be extended so as to enable him to acquire the test qualification, be fixed as five years. If he does not acquire the test qualification even within the maximum period of five years, he shall be reverted and the qualified and eligible juniors shall be considered for promotion. If such a person is appointed by direct recruitment and has not acquired the test qualification even within the maximum period of five years, his probation shall be terminated.

*Added in G.O.Ms.No.1168, P&AR
(Per.P), dt.20-11-81, w.e.f 3-3-81."

4.The Rule in this regard is unambiguous that if an employee has not passed the required special tests prescribed under the Rules, then the competent authority shall pass an order of discharge. In the case on hand, the fourth respondent invoked Rule 26 (b) (ii) of the Tamil Nadu State and Subordinate Service Rules and issued the order impugned in this writ petition.

5.The fact regarding the non-completion of the required special tests by the writ petitioner has not been disputed. The writ petitioner was appointed as Draughtsman in the year 2009 and even now the writ petitioner has not completed the required tests. This being the factum of the case, the order impugned in this writ petition is not infirm and the other grounds raised in this writ petition deserve no further consideration, in view of the Rules cited supra.

6. Accordingly, the Writ Petition stands dismissed. However, no order as to cost. Consequently, connected miscellaneous petition is closed.

Sd/-

सतयमेव जयते
ASST. REGISTRAR
/TRUE COPY/

SUB ASST. REGISTRAR

WEB COPY

To

1. Government of Tamil Nadu,
Represented by the Secretary to Government,
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Chepauk, Chennai - 600 005.
3. The Additional Director of Survey and Land Records,
Chepauk, Chennai - 600 005.

4. The Assistant Director of Survey and Land Records,
Dharmapuri.

+1 CC to Mr. M.Ravi Advocate SR.NO.67234

+1 CC to Government Pleader SR.No.67939

W.P.No.7835 of 2015

VC (11/11/2017)



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