

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.15064 of 2009

V.Dorairajan

... Petitioner

Vs

1. The Government of Tamil Nadu,
Rep.by its Principal Secretary to the Government,
Department of Revenue,
Fort St.George, Chennai.
2. The Commissioner of Revenue Administration,
Chepauk, Chennai.
3. The District Collector,
Collectorate, Thiruvavarur. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to promote the petitioner as Deputy Collector to the concerned place as per G.O(Ms) No.115, dated 03.04.2009.

For Petitioner : Mr.P.Vijendran

For Respondents : Mrs.K.Bhuvaneswari
Additional Government Pleader

ORDER

The petitioner has come up with this writ petition for a Mandamus, directing the first respondent to promote him as Deputy Collector to the concerned place as per G.O(Ms) No.115, dated 03.04.2009.

2.Upon notice, the third respondent filed a detailed counter affidavit, wherein, in para 10, it has been specifically averred that the Inspector of Police, District Crime Branch, Tiruvavarur has filed charge sheet against the petitioner before the Judicial Magistrate, Tiruvavarur, based on the complaint received from one Kamatchi Ammal and the same was taken on file as

C.C.No.81/2009, which is pending for trial; and as per G.O.Ms.No.368, P&AR department dated 18.10.1993 without concluding the criminal case, the petitioner could not be promoted.

3.When the matter was taken up for consideration, the learned Additional Government Pleader appearing for the respondents submitted that the petitioner had retired from service and hence, nothing survives for adjudication in this writ petition.

4.The said submission made by the learned Additional Government Pleader appearing for the respondents has been fairly conceded by the learned counsel for the petitioner. However, he submitted that during the pendency of the writ petition, the petitioner was discharged from the criminal proceedings pending against him, vide order dated 05.10.2010 passed by this Court in Crl.RC.No.170 of 2010 and hence, the petitioner may be granted liberty to approach the authority concerned with regard to grant of notional benefits, if any and the same may be directed to be considered by the respondents, without raising any ground with regard to limitation. In support of the limitation aspect, he also placed reliance on the order of this Court dated 21.09.2017 in WP.No.12218 of 2010 [C.Suviseshamuthu v. The Director of Public Health and Preventive Medicine, Chennai and another], wherein, in para 44, it has been held as follows:

"44.Therefore, from the principles as enumerated in all those judgments referred to above, would undisputedly disclose that on the ground of delay and laches in approaching the authorities, or in turn approaching the Court of Law for getting the remedy arising out of the statute the avenue cannot be closed by taking a different view. A consideration of delay and laches is only the matter of discretion of the Court and it does not affect the jurisdiction of the Court. Moreover, if acceptable reasons are given by the litigant for the delayed approach to the Court of Law, the same can be accepted in order to decide as to whether, the petitioner can get any relief arising out of his substantive right flow from the statute. Therefore, by applying these broad principles as enumerated in the above cases, in the present facts and circumstances of the case projected before this Court, this Court has no hesitation to hold that the prayer sought for by the petitioner cannot be denied."

5.In view of the above, the writ petition stands closed,
granting such liberty to the petitioner. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ms

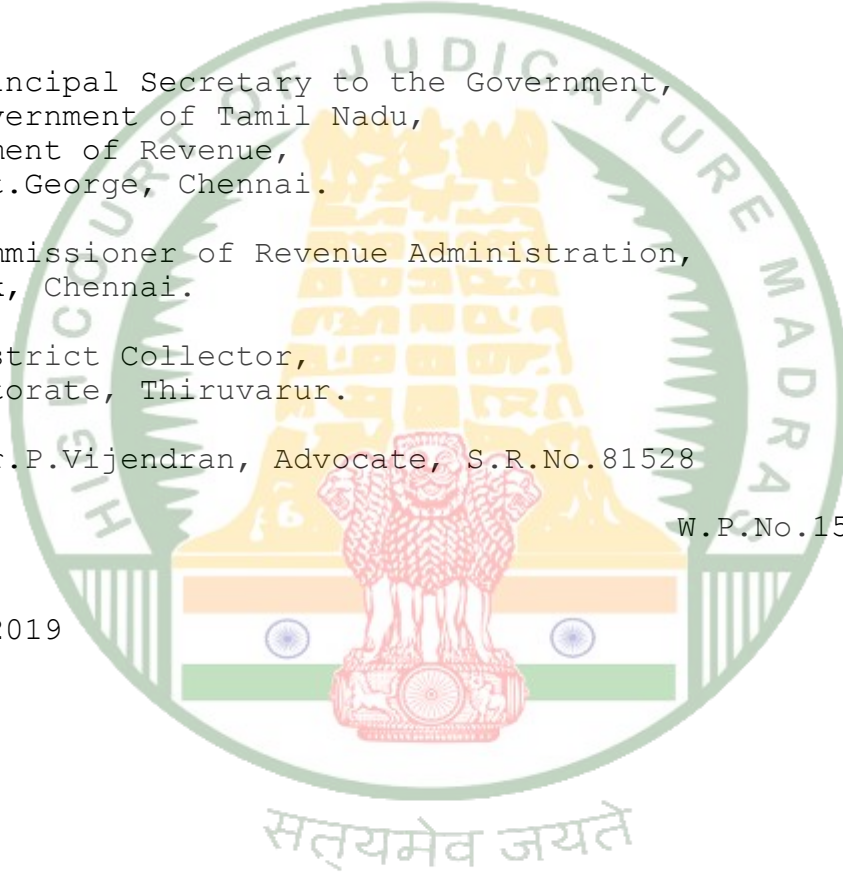
To

1. The Principal Secretary to the Government,
The Government of Tamil Nadu,
Department of Revenue,
Fort St.George, Chennai.
2. The Commissioner of Revenue Administration,
Chepauk, Chennai.
3. The District Collector,
Collectorate, Thiruvavur.

+1cc to Mr.P.Vijendran, Advocate, S.R.No.81528

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SV(CO)
CS/24/01/2019



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