

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.11130 of 2015

and

W.M.P.No.2 of 2015

G.Manimegalai

... Petitioner

Vs

1.Government of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Secretariat,
Chennai 600 009.

2.The Special Commissioner/Director
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: Petition filed under Article 226 of the Constitution of India, to to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent relating to Na.Ka.No.190/2013/G2, dated 31.12.2015 (wrongly mentioned) and signed on 09.01.2015 to quash the same and to issue consequential directions to the respondents to desist him from giving effect to the proposed revision of the dates of the petitioner regularisation in the post of Senior Draftsman for the year 1988 and consequential promotions as Head Draftsman/Manager (Technical) and Technical Officer and permit the petitioner to retire from service on 30.04.2015 with all consequential benefits.

For Petitioner : Mr.P.Ganesan
for Mr.K.Govindaraj

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

This writ petition is directed against the impugned proceeding dated 09.01.2015 calling for an explanation from the

petitioner, as to why the promotion given inadvertently to the post of Senior Draftsman on 29.03.1984, which is approximately 30 years ago, should not be reconsidered.

2. Assailing the impugned order, the learned counsel for the petitioner submitted that the petitioner joined the services under the respondent as Draftsman in Survey and Land Records Department on 20.09.1980 and after completion of two years of satisfactory service, the probation was also declared holding that she has satisfactorily completed the period of probation on 04.10.1982. Thereafter, he has also passed the departmental test viz., Revenue Draftsman Test and Commercial Draftsman Test in the month of May 1981 and November 1983. Taking note of passing of the tests as mentioned above, she was further promoted to the post of Senior Draftsman on 29.03.1984. Subsequently, the respondent also passed an order for regularising the services of the petitioner in the promotional post of Senior Draftsman. Latter on, she was deputed to attend the Survey Training for 28 days from 18.11.1987 to 15.12.1987. After 11 years, she was further promoted as Head Draftsman with effect from 30.10.1998 and her services in the post of Head Draftsman were also regularised from the said date. Again, she was given further promotion to the post of Manager (Technical) on 01.08.2006, and in the said post also, her services were regularised. Finally, she was given yet another promotion to the post of Technical Officer on 21.11.2013. However, on the verge of her retirement, which is on 30.04.2015, the present impugned show cause notice dated 09.01.2015 was issued calling for an explanation from her as to why the promotion given to her to the post of Senior Draftsman on 29.03.1984 should not be reconsidered, since the said promotion was given without considering the requisite qualification thereon. Therefore, it is contended, the present show cause notice issued after a period of 30 years that too, on the verge of her date of retirement, cannot be sustained. It is also further stated that, after the promotion to the post of Senior Draftsman, the petitioner was further given three promotions as Head Draftsman, Manager (Technical) and Technical Officer on 30.10.1998, 01.08.2006 and 21.11.2013 respectively.

3. Although this Writ Petition was filed in the year 2015 and notices were issued to the respondents, inspite of sufficient adjournments given on the following dates (ie) 04.11.2010; 07.11.2016; 11.11.2016; 12.05.2017; 13.07.2017; 08.11.2017; 10.11.2017; 24.11.2017; 08.01.2018; 10.01.2018; 23.01.2018; 30.01.2018; 02.02.2018 and 05.02.2018, the respondents have failed to file their counter affidavit, for the reasons best known to them.

4. Mr. V. Jayaprakash Narayanan, learned Special Government Pleader also produced a communication dated 08.11.2017 addressed to the respondents herein and also another communication dated

23.11.2017, addressed the respondents herein, requesting them to meet him along with relevant records and para wise remarks for filing the counter affidavit. Unfortunately, the respondents have not come forward to file any counter affidavit. This may be due to the reason that they have no ground to substantiate the impugned show cause notice.

5.It is not in dispute that, after the promotion given to the petitioner in the post of Senior Draftsman on 29.03.1984, which is questioned in the present impugned show cause notice dated 09.01.2015, the petitioner was further given three promotions as Head Draftsman, Manager (Technical) and Technical Officer on 30.10.1998, 01.08.2006 and 21.11.2013 respectively. While such being the admitted position, the present impugned show cause notice dated 09.01.2015 issued by the fourth respondent, that too, on the verge of her retirement, to explain why the promotion given to her 30 years ago i.e., on 29.03.1984 should not be recalled, cannot stand to legal scrutiny in view of undue delay.

6.Therefore, this Court, by considering the fact that despite several opportunities the respondents have never turned up to file their counter affidavit and also taking note of the undue delay as stated supra in issuing the present show cause notice, is of the considered view that the impugned show cause notice is vitiated on the ground of undue delay. On this count, in my view, the present impugned show cause notice issued by the fourth respondent cannot be sustained in the eye of law, hence, the same is quashed.

In fine, for the reasons stated above, the Writ Petition is allowed. The respondents are directed to disburse the entire retiral benefits to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs. W.M.P.No.2 of 2015 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sai / rkm

To

1.Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Secretariat,
Chennai 600 009.

2.The Special Commissioner/Director
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.

+1cc to Mr.K.Govindaraj, Advocate SR.No.9115
+1cc to Government Pleader sR.No.9763

NRI (CO)
sm:15.2.2018

W.P.No.11130 of 2015



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