

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.07.2018

Coram

The Honourable Mr.Justice M.DHANDAPANI

W.P.No.9915 of 2007

Ramalingam

.... Petitioner

Vs

1 THE SECRETARY TO GOVERNMENT
RURAL DEVELOPMENT & PANCHAYATS (E7)
DEPARTMENT FORT ST GEORGE CHENNAI -9

2 THE DISTRICT COLLECTOR
SIVAGANGAI DISTRICT.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records of the respondents in connection with the impugned order passed by the first respondent in G.O. ID No. 547 Rural Development (E7) Department dated 15.9.2006 and quash the same in so far as the date of declaration of the probation of the petitioner concerned i.e. from 1.12.95 and further direct the respondents to declare the probation of petitioner from the date of his initial appointment i.e. from 10.06.1984 and regularize the services of the petitioner from 10/06/1984 with all consequential service and monetary benefits and grant such other further relief.

For Petitioner : Mr.K.Venkataramani, SC
for Mr.M.Muthappan
For Respondents : Mr.K.Ravikumar, AGP

ORDER

Petitioner has filed the present writ petition seeking to call for the records of the respondents in connection with the impugned order passed by the first respondent in G.O.I.D No.547 Rural Development (E7) Department, dated 15.9.2006 and quash the same in so far as the date of declaration of the probation of the petitioner is concerned i.e., from 1.12.95 and further direct the respondents to declare the probation of petitioner from the date of his initial appointment i.e., from

10.06.1984 and to regularize the services of the petitioner from 10.06.1984 with all consequential service and monetary benefits.

2. The case of the petitioner is that after the death of petitioner's father, petitioner was appointed as Junior Assistant by the second respondent on compassionate ground on 10.06.1984. At the time of appointment, petitioner was over aged and hence a proposal for approval had been sent for relaxation of age and subsequently, vide G.O.Ms.No.215, Revenue Department, dated 11.01.1988 the same had been relaxed. Thereafter, there had been a mass retrenchment in Sivagangai District and the Junior Assistants working in the Revenue Unit of Pasumponmuthuramalingathevar District were transferred to Rural Development Department and posted as Junior Assistants in various Panchayat Union offices. Due to which, the petitioner was appointed as Junior Assistant in the District Development Officer, Devakottai on 03.12.1987 and the same has also been confirmed vide order of the second respondent dated 11.02.1988. Petitioner was not aware of the fact that passing of departmental test within five years from the date of appointment is the main criteria for promotion, he has not written the departmental test. Since the petitioner's juniors have got promotion and when the petitioner had enquired with the second respondent, he had come to know that only because of non-qualifying in the departmental test, his promotion was denied.

3. However, there had been already four years delay in relaxing the age limit, the petitioner made a representation on 28.07.1996 for regularization of his services from the date of his initial appointment, i.e., on 10.06.1984. Since the second respondent had not responded to his representation, the petitioner filed O.A.No.7450 of 1997 before the Tamil Nadu Administrative Tribunal which has been subsequently transferred to the file of this Court and renumbered as W.P.No.26865 of 2005. Though a direction had been issued by this Court to the second respondent to consider the case of the petitioner and while the second respondent has sent the proposal to the government for relaxing the rule and for extension of probation, in the meanwhile, the first respondent published the seniority list. The petitioner's name does not find place in the same and once again the petitioner made a representation to the second respondent. Thereafter, the second respondent published the seniority list on 17.03.2006 wherein the petitioner's name found place in Sl.No.247 whereas his original seniority should be Sl.No.147. Again the petitioner made a representation on 16.05.2006 seeking to re-fix his seniority and a writ petition in W.P.No.22645 of 2006.

4. This Court by order dated 17.07.2006, issued

direction to the first respondent to consider the case of the petitioner.

5. In view of the said direction issued by this Court, the first respondent passed the impugned order granting relaxation in respect of passing of the tests and also extended the period of probation and ordered regularisation from 30.11.1995 the date on which the petitioner passed the test by relaxing Rule 26(a)(ii) and Rule 28 of the General Rules and also Rule 34(a) of the Tamil Nadu Ministerial Service Rules.

6. Since the petitioners request was to regularise his services from the date of initial appointment i.e., 10.06.1984 and the impugned order has been passed only from the date from 30.11.1995 the date on which the petitioner had qualified in the departmental test the present writ petition has been filed.

7. Heard the learned counsel appearing for the petitioner as well as the learned counsel for the respondent and perused the counter affidavit filed by the second respondent.

8. The petitioner was given opportunity on compassionate ground in the year 1984. Even at the time of appointment since the petitioner was over aged the respondent has relaxed the age under Rule 28 of Sub Rules of Tamil Nadu Ministerial Services. Thereafter, on administrative reasons, the petitioner's service was transferred to Rural Development Department and his appointment had also been confirmed. Passing of Departmental test is the general criteria for promotion to higher level. The petitioner did not choose to write the departmental test hence, he was denied promotion and his juniors were promoted. After passing the departmental test the petitioner made a representation to regularise his service. The respondent after considering the case of the petitioner leniently has passed the impugned order regularising his service from the date of passing of his departmental test, which is sustainable in law.

9. Hence, I do not find any infirmity or irregularity in the order passed by the respondents. Hence, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

smi

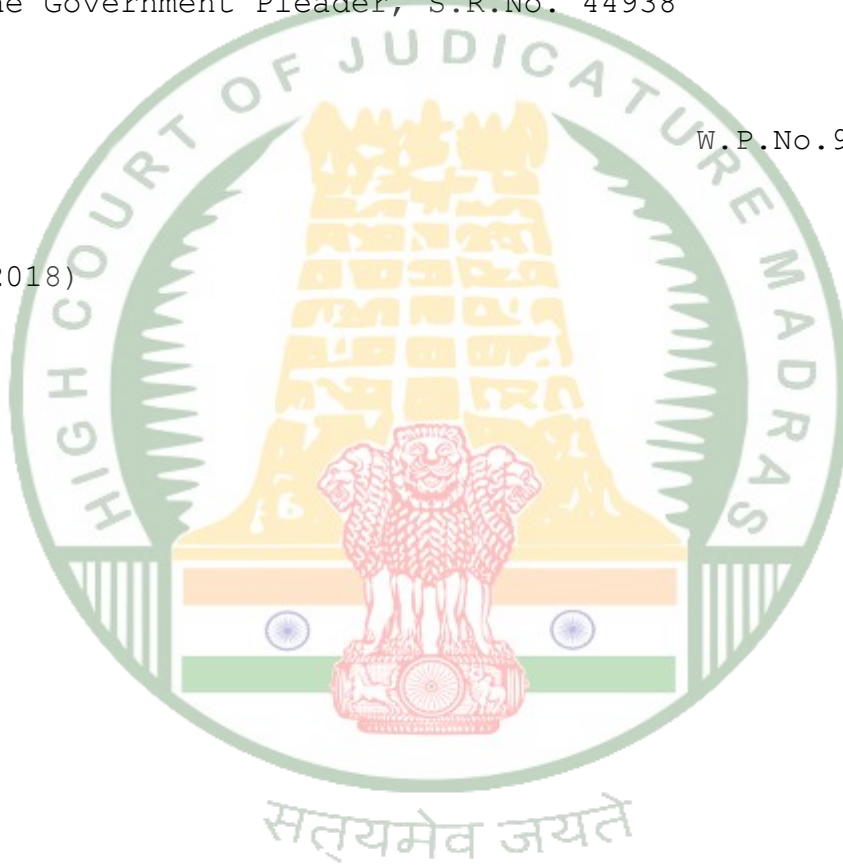
To

- 1 THE SECRETARY TO GOVERNMENT
RURAL DEVELOPMENT & PANCHAYATS (E7)
DEPARTMENT FORT ST GEORGE CHENNAI -9
- 2 THE DISTRICT COLLECTOR
SIVAGANGAI DISTRICT.

+1cc to Mr.M.Muthappan, Advocate, S.R.No. 44239
+1cc to the Government Pleader, S.R.No. 44938

W.P.No.9915 of 2007

SJ(CO)
GN(06/09/2018)



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