IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2018

CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.41393 of 2006
and M.P.Nos.1 & 2 of 2006

N.Govindarajan ...Petitioner

Versus

1.The Government of Tamilnadu rep.by
Secretary to Government,
Revenue Department,
Fort St.George,
Chennai-600 009.

2.The Special Commissioner and Commissioner of
Revenue Administration,
Chepauk, Chennai-600 005.

3.The District Revenue Officer,
Namakkal District,
Namakkal.

4.The District Collector,
Namakkal District,
Namakkal. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to orders in [1] Pro.Na.Ka.No.Ser.3(2)/17858/2005 dated 24.06.2006 of the second respondent; [2] Government Lr.13039/Ser.X(1)/2005-2, Revenue Department, dated 16.05.2003; [3] Government Lr.No.40894/Ser.3(2)/2004-3, Revenue Department, dated 09.12.2004 passed by the first respondent; [4] Pro.No.Ser.4(1) 40007/2003 dated 02.04.2004 of the second respondent; [5] Pro.Roc.No.38491/2001/A2 dated 19.03.2003 of the third respondent, quash the same and issue consequential direction to the fourth respondent herein to include the name of the petitioner in the panel for promotion as Deputy Tahsildar for the year 1998, approved in proceedings Pdl.28/99(A2) dated 27.02.1999 of the fourth respondent herein, in the appropriate place therein and to promote him as Deputy Tahsildar with retrospective effect from the date of promotion of his immediate junior with consequential benefits.

For Petitioner : Mr.M.Ravi
For Respondents : Mr.K.Ravikumar, AGP

ORDER

The petitioner has filed this Writ Petition challenging the order of the third respondent dated 19.03.2003, confirmed by the respondents 1 and 2 and for consequential direction to the respondents to include the petitioner's name in the panel of Deputy Tahsildar for the year 1998 approved in Proceedings Pdl.28/99(A2) dated 27.02.1999 by the fourth respondent-The District Collector, Namakkal, in the appropriate place and to promote the petitioner as Deputy Tahsildar with retrospective effect from the date of promotion of his immediate junior with consequential benefits.

2.The case of the petitioner is that the petitioner has joined service as Junior Assistant in the year 1974 in the Revenue Department. Thereafter,he was promoted as Assistant in the year 1983. He has been stagnated in the post of Assistant for 22 years and thereafter he has served in Namakkal District Revenue Unit as Assistant in the District Supply Office, Namakkal. According to him, he is fully eligible for the post of Deputy Tahsildar in the year 1988 itself however, his name has not been considered for the said post on account of the pendency of Disciplinary Proceedings under Rule 17(b) of the Tamil Nadu Civil Services (D.&A.) Rules. The charges framed against the petitioner are as follows:

"Charge-I:

That the said Thiru.N.Govindarajan, while functioning as Revenue Inspector, Tiruchengode, has issued a false certificate on 19.12.1984 to the effect that Tmt.Pappathi, W/o.P.Palaniappan is the sister of one Thiru.S.Kumarasamy, S/o.Sengoda Gounder, Kailasampalayam Village, so as to enable her to transfer the ownership of the ready built house MIC No.11 at Kootapalli H.B., Colony, Tiruchengode in her name whereas the fact is, the said Pappathi is in no way related to the said Kumarasamy.

Charge-II:

By issuing the said false certificate, he showed undue favour of the said Tmt.Pappathi and enabled her to get the ownership of the house changed in her name whereas the real position is that she is not entitled for such transfer of ownership in her name since she is not related to the said Kumarasamy, either as Mother, Sister, Wife (Blood related).

Charge-III:

By committing the above serious irregularities, he has helped an ineligible person to get the transfer of title effected and hereby committed gross official misconduct and proved himself unfit to continue in Government Service.”

Since the disciplinary proceedings was not completed within the stipulated time, the petitioner was forced to file O.A.No.1948 of 1997 on the file of Tamil Nadu Administrative Tribunal, against the said Disciplinary Proceedings. However, on 20.12.2002, the Tribunal had issued directions to the District Revenue Officer, Salem to dispose of the Disciplinary Proceedings and pass final order within a period of three months. Thereafter, the District Revenue Officer, issued notice to the petitioner and called for his explanation. After conducting the disciplinary enquiry, the petitioner was awarded stoppage of increment for three years with cumulative effect including the period spent on leave and the same will effect his pensionary benefits. As against the same, the petitioner filed an appeal before the second respondent on 21.05.2003. The second respondent by order dated 02.04.2004, rejected his appeal and confirmed the order, however, modified his punishment of stoppage of increment for three years with cumulative effect as stoppage of increment for one year with cumulative effect. Aggrieved by the said order, the petitioner filed Review Petition before the first respondent and on 24.06.2006, the first respondent rejected the petitioner's appeal. Aggrieved by the same, the petitioner has filed the present Writ Petition.

3.The learned counsel for the petitioner would submit that initially there was a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (D.&A.) Rules. Since, the proceedings was not completed, the petitioner was forced to file Original Application before the State Administrative Tribunal, wherein the Administrative Tribunal directed the District Revenue Officer to pass appropriate orders within three months. Thereafter, the authorities passed an order imposing penalty of “Stoppage of increment for three years with cumulative effect.” Hence, aggrieved by the same, the petitioner has approached the second respondent, who had confirmed the order of the Administrative Tribunal and modified the punishment. According to the petitioner, since both the authorities on erroneous consideration imposed the punishment, consequently, his name was not considered for the promotional post of Deputy Tahsildar. Accordingly, he prays for allowing the petition.

4.Heard both sides.

5.Though, the petitioner was issued with charge memo under Rule 17(b) of the Tamil Nadu Civil Services (D.&A.) Rules as stated in paragraph 2 of this order, the third respondent initiated disciplinary proceedings and imposed the punishment of stoppage of increment for three years with cumulative effect. However, on appeal the punishment was modified to stoppage of increment for one year. Thereafter, the petitioner's review petition before the first respondent was also rejected. Since, three fact finding authorities have already considered the petitioner's case and arrived at a conclusion that the petitioner deserves to be punished for the irregularities committed by him, in the absence of any materials to show that their findings are perverse, there is no scope under Article 226 of the Constitution of India for inferring with the decision of the fact finding authorities. In view of the above, I do not find any error in the disciplinary proceedings as well as appeal proceedings. In view of the dismissal of the appeal, the consequential relief sought by the petitioner cannot be granted. Accordingly, the petitioner is not entitled for any relief sought for.

6.In the result, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Government of Tamilnadu,
Revenue Department,
Fort St.George,
Chennai-600 009.

2.The Special Commissioner and Commissioner of
Revenue Administration,
Chepauk, Chennai-600 005.

3.The District Revenue Officer,
Namakkal District,
Namakkal.

4.The District Collector,
Namakkal District,
Namakkal.

+1cc to the Government Pleader, S.R.No.41455

W.P. No.41393 of 2006
and M.P.Nos.1 & 2 of 2006

SR(CO)
TR(10/08/2018)