

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2018

CORAM:

THE HON'BLE MR.JUSTICE M. DHANDAPANI

W.P.No. 28397 of 2006

M. Selvaraj

... Petitioner

/Vs/

1. The State of Tamilnadu
Represented by its Secretary to Government
Revenue Department
Chennai - 9.
2. The Regional Deputy Director of
Survey and Settlement,
Madurai - 20.
3. The Assistant Director of Survey and
Land Records,
Sivagangai,
Sivagangai District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the third respondent in his proceedings Na.Ka.A2/403/2000 (1), dated 01.03.2000, and the order passed by the second respondent in Na.Ka.A1/11320/2000, dated 07.03.2001 and the G.O.Ms.No.492, Revenue Department, dated 25.08.2005 passed by the first respondent in so far as the petitioner is concerned, and the consequential order passed by the first respondent in Letter No.7791/Ni.a.3(2)/05-3, Revenue Department, dated 03.11.2005 and to quash the same, and to direct the respondents to restore the seniority of the petitioner as Surveyor reckoning the initial date of appointment as Surveyor as 10.06.1991 and confer all the consequential restoration of seniority and further promotion to the post of Firka Surveyor from the date on which his junior was promoted.

For Petitioner : Mr.P. Ganesan
for Mr.P. Mani

For Respondents : Mr.R. Govindasamy
Special Government Pleader

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O R D E R

The writ petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the third respondent in his proceedings Na.Ka.A2/403/2000 (1), dated 01.03.2000, and the order passed by the second respondent in Na.Ka.A1/11320/2000, dated 07.03.2001 and the G.O.Ms.No.492, Revenue Department, dated 25.08.2005 passed by the first respondent in so far as the petitioner is concerned, and the consequential order passed by the first respondent in Letter No.7791/Ni.a.3(2)/05-3, Revenue Department, dated 03.11.2005 and to quash the same, and to direct the respondents to restore the seniority of the petitioner as Surveyor reckoning the initial date of appointment as Surveyor as 10.06.1991 and confer all the consequential restoration of seniority and further promotion to the post of Firka Surveyor.

2. The case of the petitioner is that the petitioner was initially appointed as Surveyor cum Draughtsman on contract basis and consolidated time scale of pay in the year 1983. Thereafter, the petitioner's service was regularized as Surveyor in regular time scale of pay vide proceedings of the Assistant Director, District Land Survey and Registration Department, dated 10.06.1991.

3. On 08.07.1971, the petitioner was in Serial No.152 of the seniority list as Surveyor. However, on 29.03.1986, the petitioner was given seniority list as Draughtsman instead of Surveyor for which, the petitioner was again reposted as Surveyor on 20.03.1998. Thereafter, the seniority list was published in which, the petitioner has been arrayed at Sl.No.33 as Draughtsman on 01.03.2000 in Na.Ka.A2/403/2000 (1).

4. Aggrieved by the fixation of seniority list, the petitioner made representation to the second respondent, dated 03.10.2000. On receipt of the said representation, the second respondent rejected the claim of the petitioner dated 07.03.2001. Thereafter, the first respondent published a

Government Order regularizing the 10(A)1 appointment of the petitioner. However, after regularization on 03.11.2005, the first respondent rejected the petitioner's request of fixation of seniority. Challenging the above said order, the present writ petition is filed.

5. Mr. Ganesan, learned counsel appearing for the petitioner would submit that the petitioner was initially appointed as Junior Assistant on consolidated pay in the year 1993. Subsequently, the petitioner's services were regularized on 01.01.1992, based on the Government Order No.408, dated 24.07.2000 and Government Order (MS).No.60, Revenue Department, dated 09.02.2001 as Surveyor. Vide the said Government Order, he was transferred as Surveyor on 24.08.1998. However, the petitioner's request for fixation of seniority as Surveyor was rejected without any valid grounds. Therefore, the present writ petition is filed.

6. Careful reading of the impugned order, dated 03.11.2005, would reveal that the petitioner was initially appointed as Surveyor cum Draughtsman on consolidated pay in the year 1983. However, the petitioner was granted time scale of pay on 12.06.1981 and his services were also regularized as Surveyor on 01.01.1992. Accordingly, time scale of pay was granted. Thereby, the petitioner's services were regularized as Draughtsman in the year 1982. Since the petitioner did not qualify himself in the departmental test as Draughtsman and he has not completed probation period, the petitioner was transferred from Draughtsman to Surveyor on 24.08.1998 on condition that the petitioner should accept as junior most, first in the seniority list. On the above said condition, he accepted to join duty, thereby fixing the seniority. Accordingly, the petitioner's services were regularized as Surveyor vide G.O.(MS) 492 (Ni.A.3(2), Revenue Department, dated 25.08.2005 in the post of Surveyor on 24.08.1998. Accordingly, the claim of fixing of seniority as Surveyor from 12.06.1991 cannot be considered.

7. On perusal of the impugned order, I do not find any error in the impugned order passed by the Authority, since the petitioner has not passed the departmental test as Draughtsman and he did not complete the probation period, his services were transferred from Draughtsman to Surveyor with condition.

8. In view of the above, I do not find any error or illegality in the Impugned order. However, it is open to the petitioner to file a representation for claiming qualifying the service in the post of Draughtsman. Accordingly, liberty is granted to the petitioner to workout the remedy in the manner known to law.

9. However, this order will not stand in the way of the petitioner to make a representation for claiming the qualifying service as Draughtsman in accordance with law.

10. Accordingly, the Writ Petition is dismissed. No costs.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1. The Secretary to Government
State of Tamilnadu
Revenue Department
Chennai - 9.

2. The Regional Deputy Director of
Survey and Settlement,
Madurai - 20.

3. The Assistant Director of Survey and
Land Records,
Sivagangai,
Sivagangai District.

सत्यमेव जयते

W.P.No.28397 of 2006

SSV(CO)
SDR 21/05/2018

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