

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-09-2019

CORAM

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD,J.,
W.P.No.3927 of 2010
And
W.PM.P.No.2 of 2010

D.Rajasekaran

.. Petitioner

- Vs. -

1.The Director of Survey and
Land Records,
Thiruvarur.

2.The Maintenance Inspector,
Thiruvarur Divisional Survey Office,
Thiruvarur.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, or any other order or direction in the nature of writ, calling for the records pertaining to the impugned order of the 1st respondent passed in Na.Ka.No.A4/8469/09-(1), dated 22.01.2010 and the consequential order of relieving the 2nd respondent in Na.Ka.No.8/2010, dated 10.02.2010 and quash the same.

For Petitioner : Mr.G.Bala and Daisy
For Respondents : Mr.N.Srinivasan
Additional Government Pleader

सत्यमेव जयते

O R D E R

The Writ Petition is filed for seeking for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order of the 1st respondent passed in Na.Ka.No.A4/8469/09-(1), dated 22.01.2010 and the consequential order of relieving the 2nd respondent in Na.Ka.No.8/2010, dated 10.02.2010, reverting the petitioner from the post of Sub-Inspector of Surveyor in the National Highways Land acquisition project under the Special Tahsildar, Thiruvarur Unit-I to the position of Firka Surveyor.

2 The petitioner was appointed as a Section Writer in the office of the Director of Survey and Land Records, Thiruvavur at Nagapattinam through Employment Exchange on 06.11.1982. He was appointed as Surveyor cum Draughtsman on 03.11.1983 and subsequently, he was placed under the regular time scale of pay in the post of Surveyor cum Draughtsman on 07.07.1999. Thereafter, he was promoted as Firka Surveyor on 02.01.2002. According to the petitioner, he passed Departmental exams and on qualifying departmental test, he became eligible for the post of Sub-Inspector of Survey. His name was included at Sl.No.45 in the seniority list dated 03.04.2009.

3. Later, the petitioner was also promoted as Sub-Inspector of Survey by an order dated 01.02.2005. He was working as Sub-Inspector of Survey in the special department of National Highways Land Acquisition of the Special Tahsildar Office, Thiruvavur Unit-I. While so, the first respondents issued the impugned order reverting the petitioner to the post of Firka Surveyor. Aggrieved by the same, the petitioner is before this Court by filing the instant Writ Petition.

4. The material on record shows that the Government of Tamil Nadu issued an order in G.O.M.S.No.681, Revenue Department, dated 25.07.1996, wherein Thanjavur district District was re-organized and three districts viz, Thanjavur, Nagapattinam and Thiruvavur District were formed. Based on the trifurcation of the composite Thanjavur District, the staff working in the erstwhile composite Thanjavur District were distributed among the above three Districts. Thereafter, the Government issued an order in G.O.(Rt) No.334 Revenue (SS.1-1) Department dated 26.06.2000, wherein personnel sanctioned to composite Thanjavur District were allocated to Thanjavur, Tiruvavur and Nagapattinam Districts. In the mean time, the Sub-Inspectors of Survey who were distributed among Nagapattinam and Thiruvavur Districts and relieved by the Assistant Director of Survey and Land Records, Thanjavur. Challenged the transfer and filed a Writ Petition in W.P.No.13556 of 2003 before this Court. In the said writ petition, this Court while observing that since no seniority list was prepared so as to make allocation of posts by the Government, dismissed the writ petition. This Court however, directed the respondents therein to maintain status quo till final orders are passed. There was also another petition and order dated 22.04.2008 passed by this Court in W.P.Nos.14832 to 14834 of 2003, wherein, a Division Bench of this Court observed that any re-organization will necessarily result in redeployment and the same cannot be challenged on any ground and accordingly dismissed the Writ Petitions.

5 Be that as it may, the present impugned order dated 22.01.2010 was issued by the first respondent reverting the petitioner to the post of Firka Surveyor on the ground that there was surplus staff in the post of Sub-Inspector of Survey already allotted to Thanjavur District and consequently, the second respondent issued impugned order dated 10.02.2010, relieving the petitioner. These impugned orders are put to challenge in the present Writ Petition.

6 The learned counsel for the petitioner contended that once the petitioner has been promoted to the post of Sub-Inspector of Surveyor, he could not be reverted to the post of Firka Surveyor on the ground that there are excess staff available in the promoted post. The learned counsel vehemently contended that the impugned order is against the principles of natural justice and he prayed to set aside the same.

7 Heard the learned counsel on both sides and perused the materials available on record.

8 It is well stated that the promotion once granted, it gives right to the promote and such right cannot be taken away, except by due process of law and in accordance with appropriate Rules which regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the state, as provided under article 309 of the Constitution of India. Before resorting to reversal the respondents have not issued any notice to the petitioner. The petitioner had been regularly promoted his promotion was neither adhoc nor provisional. The problem arising of trifurcation cannot mean that there is surplus staff. The Department should have ensured that promotions are effected only after preparing proper seniority lists as directed by the Court in its order dated 07.01.2007 in W.P.N.13556 of 2003. The petitioner has been promoted after the order dated 07.01.2007 in W.P.No.13556 of 2003. The Department has to thank itself for the confusion created by their reversion after 5 years of promotion on the ground of surplus staff is unjustified. Therefore, in the circumstances this Court is of the view that the impugned order of reversal cannot be sustained and the same is liable to be set aside. Accordingly, the impugned orders 22.01.2010 and 10.02.2010 of the first and second respondents respectively are hereby set aside. The respondents are directed to place the petitioner back in the post of Sub-Inspector of Surveyor and grant all consequential attendant benefits. The respondents are shall pass appropriate orders in this regard within a period of 8 weeks from the date of receipt of copy of this order.

9 The writ petition is allowed in the aforesaid terms. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sbn
To

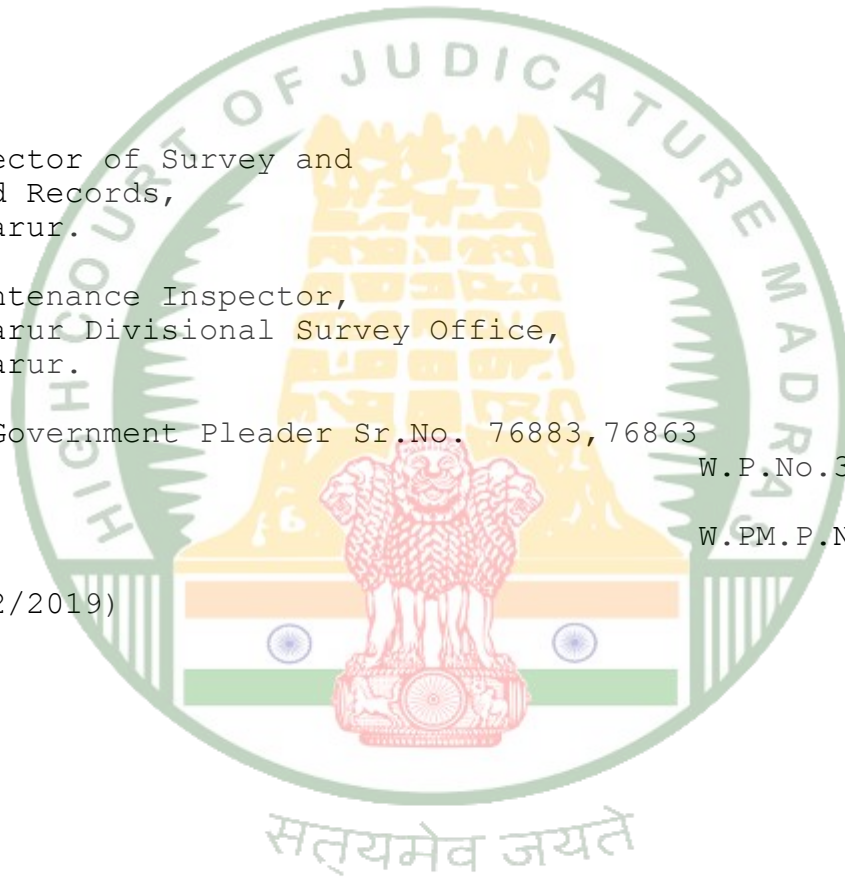
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+1 cc to Government Pleader Sr.No. 76883,76863

W.P.No.3927 of 2010
and
W.PM.P.No.2 of 2010

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