IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.31843 of 2013

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S.Maboobjan ..Petitioner

.. Vs ..

1.The Principal Secretary and Commissioner
Revenue Administration
Chepauk, Chennai.

2.The District Collector
Erode

3.The District Revenue Officer
Erode. .. Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records in respect of the order No.Na.Ka.4b-2/2010 A3 dated 30.10.2010 issued by the 2nd respondent and quash the same and direct the 2nd respondent to appoint the petitioner as Deputy Tahsildar by recruitment by Transfer with effect from 31.12.2009.

For Petitioner :Mr.A.Thiyagarajan

For Respondents :Mr.J.Pothiraj, Spl.G.P. For R1 to R3.

ORDER

This Writ Petition is filed challenging the order dated 30.10.2010 issued by the 2nd respondent and seeks to quash the same and further to direct the 2nd respondent to appoint the petitioner as Deputy Tahsildar by recruitment by Transfer with effect from 31.12.2009.

2. It is averred in the petition that while the petitioner was working as Assistant in the office of the Tahsildar, Gobichettipalayam, Erode District, she was issued with a charge memo dated 11.08.2009 by the District Revenue Officer, Erode, under rule 17(a) of the Tamil Nadu Civil Services (Disciplinary

and Appeal) Rules. The allegation in the charge memo is that during the period 12.03.2006 to 31.12.2006, when the petitioner was working as Assistant in the Election Section in the office of Tahsildar, Gobichettipalayam, the electoral identification cards of Lakkampatti village were found in dust-bins and the same has been published in the Newspapers dated 23.12.2006 and 24.12.2006.

3. The explanation of the petitioner refuting the allegations was not accepted and the District Revenue Officer, Erode, imposed a punishment of withholding one increment for a period of 3 months without cumulative effect dated 17.12.2009.

4. It is averred that the crucial date for preparation of the panel of Assistants from the Tamil Nadu Ministerial service of Erode District Revenue Unit for appointment as Deputy Tahsildars by recruitment by transfer is 1st July. Because of the abovesaid charge Under Rule 17(a) of The TamilNadu Civil Services (Disciplinary and Appeal) Rules dated 11.08.2009, punishment was inflicted on 17.12.2009 and the petitioner's name has not been included in the panel of assistants for the appointment as Deputy Tahsildar by recruitment by Transfer for the year 2009 and also 2010. The District Collector, Erode, by Proceedings Na.Ka.No.4b-2/2010 A3 dated 30.10.2010, also informed the reasons for non-inclusion of the petitioner's name in the panel that the punishment is in currency and therefore, her name has not been included. The petitioner preferred appeal to the Collector, Erode, on 26/5/2011 and then to the Principal Secretary/Commissioner Revenue Administration Department, Chepauk, Chennai-5 on 08.06.2011. The Petitioner also sent representation to the Collector, Erode District on 13.08.2012 for inclusion of her name atleast in the panel for the year 2010.

5. The petitioner submits that she was temporarily promoted as Deputy Tahsildar on 14.06.2010 but then reverted as Assistant on 02.11.2010. Later again, she was promoted as Deputy Tahsildar on 17.6.2011 and was permitted to retire as Deputy Tahsildar on attaining superannuation on 30.06.2013.

6. The learned counsel for the petitioner submits that charge under Rule 17(a) of The Tamil Nadu Civil Services (Disciplinary and Appeal) Rules cannot be a bar for inclusion of her name in the panel of Assistants for appointment as Deputy Tahsildar by recruitment by Transfer on 01.07.2009.

7. According to the learned counsel for the petitioner, as against the order passed by the 2nd respondent, the petitioner

filed appeal before the 1st respondent and the 1st respondent also dismissed the appeal on 24.05.2011. It is further submitted that on the crucial date of drawing the panel for promotion to the post of Deputy Tahsildar, the petitioner was eligible for promotion and she was not imposed with any punishment at that relevant point of time, therefore, the rejection of the petitioner's appeal by the 1st and 2nd respondents is not sustainable.

8. Per contra, the learned Special Government Pleader appearing for the respondents would submit that the writ petitioner is not eligible on the crucial date of preparation of panel. He submits that at the time of crucial date, the pendency of disciplinary proceedings against the petitioner under rule 17 (a) of the Tamil Nadu Civil Dervices (Discipline and Appeal) Rules was no bar. Hence, her name was taken into consideration for the list of Deputy Tahsildar for the year 2009. The Deputy Tahsildar panel for the year 2009 was drawn by the second respondent in Pdl.No.4B-II/2009/A3, dated 13.02.2010. In the mean time, the second respondent has perused the connected records and imposed a punishment of stoppage of increment for three months without cumulative effect in her proceedings dated 17.12.2009. Therefore, her name was not included in the above panel as per the guidelines issued in Government Letter No.18824/S/2005-2/Personal and Administrative Reforms Department/dated 07.10.2005. Her normal annual increment was 01.01.2010. Since there was punishment of stoppage of increment for three months without cumulative effect, her normal increment was effected w.e.f. 01.04.2010. Further the crucial date of Deputy Tahsildar Panel for the year 2010 was 15.09.2010. Since the above punishment was in currency within a check period i.e., 15.09.2009 to 14.09.2010, her name was taken into consideration and passed over in the list of Deputy Tahsildar for the year 2010 drawn by the 2nd respondent in Pdl.No.4B0II/2010-A3, dated 30.10.2010.

9. On a perusal of records, it is seen that the disciplinary proceedings was initiated against the writ petitioner by proceedings dated 17.12.2009, it was informed to the petitioner that he can prefer appeal to the 1st respondent. Accordingly, the petitioner has also preferred appeal before the 2nd respondent District Collector, Erode District, Erode, who rejected the said claim of the petitioner by order dated 30.10.2010, pointing out that the petitioner can further appeal before the 1st respondent. The petitioner's further appeal before the 1st respondent was also dismissed by order dated 24.05.2011. However, the petitioner has not taken any steps to challenge the order of the 1st respondent dated 24.05.2011 at that point of time. The

petitioner, on attaining the age of superannuation, retired from service on 30.06.2013 and thereafter, chosen to file this writ petition in the year 2013. In such circumstances, the writ petitioner is not entitled for the relief sought for by her. This court is not inclined to accept the contentions raised by the learned counsel for the petitioner as the petitioner has approached this court with inordinate delay and therefore, the writ petition deserves no merit and is liable to be rejected on the ground of laches.

10. In the result, the writ petition is dismissed. No orders as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

nvsri

To

1.The Principal Secretary and Commissioner
Revenue Administration
Chepauk, Chennai.

2.The District Collector
Erode

3.The District Revenue Officer
Erode.

+1 cc to Government pleader sr98055
+1 cc to Mr.A.Thiyagarajan Advocate sr97755

WP.31843 of 2013

mr(co)
aa17/02/2020