



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on
16.12.2019

Delivered on
18.12.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.22235 of 2018
and
WMP Nos.21173 & 28008 of 2018

1.S.Balakrishnan
2.T.Mohanraj
3.S.Sasikumar
4.K.Geetha
5.V.Sundar
6.C.Prakash
7.V.Kalaivani
8.S.Nesamalar
9.N.Vasanthi
10.M.Karthikeyan

.. Petitioners

.Vs.

1.The Additional Chief Secretary/
Commissioner of Revenue Administration,
Chepauk,
Chennai-5.

2.The District Collector,
Namakkal District.

3.V.Govindaraja,
Special Senior Revenue Inspector,
Sri Lankan Refugee Camp,
M.Mettupatti,
Mohanur Taluk,
Namakkal District-637 015.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the First Respondent vide proceedings No.Ser.3(3)/25427/2018 dated 13.8.2018 and also the proceedings of the Second Respondent vide proceedings No.Na.Ka.20719/2018/A2 dated 11.07.2019.



[Prayer Amended vide Court Order dt.19.08.2019 by VPNJ in W.P.No.22235 of 2019].

WEB COPY

For Petitioner : Mr.S.Vijayakumar
For R 1 & R 2 : Mr.S. Suresh Kumar
Government Advocate

O R D E R

The present Writ Petition has been filed by the petitioners challenging the proceedings of the 1st respondent dated 13.08.2018 and the proceedings of the 2nd respondent dated 11.07.2019.

2.The case of the petitioners is that they were all serving as Deputy Tahsildar in the Revenue Unit of Namakkal District and they were promoted to the said post in the panel that was drawn for the year 2015, in accordance with the notification of the 2nd respondent dated 04.11.2015. The further case of the petitioners is that they were serving as Deputy Tahsildars and also discharging their duties and at the time of their promotion, each of the petitioner had the eligibility to be promoted as the Deputy Tahsildar.

3.The grievance of the petitioners is that the 3rd respondent filed a writ petition before this Court in W.P.No.10693 of 2018 and sought for a direction to the 1st respondent to dispose of a petition that was given to him by the 3rd respondent. This Court disposed of the writ petition by directing the 1st respondent to consider and pass orders within a period of twelve weeks. The 1st respondent by virtue of the impugned proceedings dated 13.08.2018, had virtually revised the seniority list and deleted the names of the petitioners from the post of Deputy Tahsildar list that was prepared in the year 2015. This proceedings was issued by the 1st respondent without notice to the petitioners and according to the petitioners, this has caused grave prejudice to them and a settled seniority list has been unsettled without notice to the petitioners.

4.When this writ petition was pending, the 2nd respondent had issued proceedings dated 11.07.2019, revising the seniority of the petitioners in the panel of the year 2015 and he has redrawn the panel resulting in reverting the petitioners 5, 8 and 10 to the post of Senior Revenue Inspector. According to the petitioners, the 2nd respondent has no power or authority to annul or modify a list of approved candidates for appointment or promotion and it is the Government which alone has the power. These proceedings have also now been put to challenge in the present writ petition.



5.Mr.S.Vijayakumar, learned counsel appearing on behalf of the petitioners submitted that the petitioners have been fitted in the panel of Deputy Tahsildars that was approved by the District Collector of Namakkal on 04.11.2015. The learned counsel submitted that the petitioners had also functioned as Deputy Tahsildars till the year 2018. Thereafter, the respondents have proceeded to redraw the panel based on the representation made by the 3rd respondent and the same has resulted in unsettling a settled seniority list and this has been done without notice to the petitioners. The learned counsel further submitted that the right acquired by the petitioners has been taken away without even giving notice to them. The learned counsel submitted that the 2nd respondent has gone to the extent of passing one more order on 11.07.2019, during the pendency of this writ petition and as result of the same, the seniority list has been redrawn and some of the petitioners have lost their seniority and petitioners 5, 8 and 10 have infact suffered reversion to the post of Senior Revenue Inspector. The learned counsel therefore submitted that the impugned proceedings are liable to be quashed and the petitioners must be restored to their original position.

6.Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing on behalf of the Official respondents submitted that the petitioners were added only in a temporary panel of Deputy Tahsildars for the year 2015 and it was specifically stated that all the appointments are only temporary till the list is finalised under Rule 5(h) of the Special Rules for Tamil Nadu Revenue Subordinate Service. The learned counsel submitted that the 3rd respondent is senior to the petitioners and since he did not process the requisite qualification during the year 2015, his name was not added in the panel and subsequently it was added by means of the impugned proceedings and his name was directed to be included in the list of the Deputy Tahsildars for the year 2016, in the appropriate place. The learned counsel submitted that out of the 16 candidates, who were included in the panel of Deputy Tahsildars, only 6 candidates were fitted in the permanent vacancies that arose before 03.11.2016. The learned counsel submitted that after the expiry of one year, there was non-availability of permanent vacancies and therefore, 2016 and 2017 was a nil panel. The learned counsel relied upon Section 7(1) of the Tamil Nadu Government Servants (Conditions Of Service) Act, 2016 and submitted that the list of approved candidates is valid only for a period of one year and it will lapse at the end of the year and the candidates whose names are included in the previous list, but were not appointed, can be considered for inclusion in the list next year. The learned counsel submitted that the petitioners cannot claim their right as Deputy Tahsildars after



the expiry of one year since there was non-availability of permanent vacancies to the post of Deputy Tahsildars. The learned counsel submitted that there is absolutely no ground to interfere with the impugned proceedings of the respondents and the present writ petition is liable to be dismissed.

7.The learned counsel appearing on behalf of the 3rd respondent adopted the arguments made by the learned Special Government Pleader. He further submitted that the 3rd respondent had acted as Deputy Tahsildar as per the revised panel with effect from 2016 and he has also retired from service with effect from 31.03.2019. The learned counsel submitted that due to the pendency of the writ petition, the retiral benefits of the 3rd respondent has not been paid to him and therefore, the learned counsel requested this Court to give appropriate directions to the respondents in this regard.

8.This Court has carefully considered the submissions made on either side and the materials available on record.

9.The crucial date for drawl of panel of Deputy Tahsildar every year is 15th of September. Before drawl of panel, there must be an estimation of vacancies for a particular post. The District Collector, Namakkal, identified 26 vacancies to the post of Deputy Tahsildar. A panel was drawn which contained the names of 16 persons [including the petitioners] by proceedings dated 04.11.2015. With respect to the remaining 10 vacancies, the list could not be drawn as there was no candidate available under the Schedule Caste and Schedule Tribe category and for filling up four other vacancies.

10.It is clear from the list which provided for a temporary panel of Deputy Tahsildars that it will continue to be temporary till the list is finalised under Rule 5(h) of the Special Rules for Tamil Nadu Revenue Subordinate Service. This rule provides for an appellate remedy where authority is given to modify/alter the list.

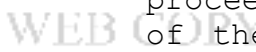
11.As per Section 7(1) of the Tamil Nadu Government Servants (Conditions Of Service) Act, 2016, the list of approved candidates, so prepared, shall be in force for a period of one year and it will lapse at the end of the year. The names of the candidates who were included in the previous list, but who were not appointed, shall be consider for inclusion in the next year list along with seniors, if any.

12.It is the case of the respondents that out of 16 persons included in the Deputy Tahsildar list for the year 2015, only persons listed in Sl.No.1 to 6 alone were appointed as



Deputy Tahsildar and accommodated in the permanent vacancies before the expiry of one year period. The other persons (petitioners herein) could not be accommodated due to non-availability of permanent vacancies. Therefore, they were reverted to their original post. It is also seen that 2016 and 2017 had a nil list. In the meantime, the 3rd respondent had approached this Court and this Court had directed to consider his request for placing his name in the panel. The 1st respondent by his proceedings dated 13.08.2018, has found that the 3rd respondent is senior to the petitioners and he could not get promotion as Deputy Tahsildar in the year 2015, since he did not pass criminal judicial test at the time of drawl of the list. Since there was no SC candidate available for inclusion in the list, 5 vacancies meant for SC candidates was carried over to the next panel year. The 3rd respondent passed the test in the year 2016 and made a representation to consider adding him in the list under the SC category in the carried over vacancy. The 1st respondent has specifically found that the 3rd respondent is entitled to be included in the Deputy Tahsildar list for the year 2016, against the backlog vacancy and accordingly, he has added in the list of Deputy Tahsildars for the year 2016. As a result of the same, the 1st respondent had directed that except the 6 candidates who were appointed as Deputy Tahsildar and accommodated in permanent vacancies, the names of the remaining persons should be deleted and a revised list of Deputy Tahsildars should be drawn considering the eligible candidates.

13. In the considered view of this Court, the 1st respondent ought to have independently considered the claim of the petitioners and if the claim of the 3rd respondent was found in his favour, his name should have been added in the list against the backlog vacancy that was carried forward for the candidates belonging to SC. The 1st respondent ought not to have unsettled the original list which was approved by the Collector of Namakkal in the year 2015 and infact the petitioners were working as Deputy Tahsildars till the year 2018. Thereafter, the 2nd respondent has passed the impugned proceedings on 11.07.2019, redrawing the panel and reverting petitioners 5, 8 & 10 to the post of Senior Revenue Inspector. In the considered view of this Court, this ought not to have been done by the 1st and 2nd respondents without putting the petitioners on notice. The counter affidavit filed by the 2nd respondent on behalf of the 1st respondent, makes it clear that 26 vacancies were identified by the District Collector, Namakkal and a panel of 16 persons were also approved by the proceedings of the 2nd respondent dated 04.11.2015. The claim of the 3rd respondent was only as against the 6 vacancies for SC and ST candidates, which was carried forward for non-availability of a suitable candidate. The petitioners ought to have been put on notice



14. This Court does not want to interfere with the proceedings of the 1st respondent insofar as including the name of the 3rd respondent in the list of Deputy Tahsildar for the year 2016. The 3rd respondent had the necessary qualification and the seniority to be included in the panel in the year 2016. To that extent, the impugned proceedings of the 1st respondent dated 13.08.2018, is sustained and consequently the terminal benefits of the 3rd respondent must be settled as expeditiously as possible. The proceedings of the 1st respondent dated 13.08.2018 and the proceedings of the 2nd respondent dated 11.07.2019, requires interference of this Court. These proceedings have virtually unsettled and revised a settled seniority list that was drawn in the year 2015, in the terms of the proceedings of the 2nd respondent dated 04.11.2015. This had happened after the petitioners had started functioning as Deputy Tahsildars for nearly three years. It has also resulted in reversion of three of the petitioners. To that extent, the impugned proceedings of the 1st respondent dated 13.08.2018, requires interference likewise the impugned proceedings of the 2nd respondent dated 11.07.2019, also requires interference. Those proceedings are accordingly quashed. It is made clear that the proceedings are interfered only to the extent it affects the rights of the petitioners.

15. In view of the above, the petitioners are directed to give detailed representation to the 2nd respondent by giving all the particulars and the 2nd respondent is directed to draw a panel for the post of Deputy Tahsildar by adding the names of the petitioners in terms of their seniority by taking into consideration, the vacancies that were available from the year 2015 onwards and pass appropriate orders within a period of six weeks from the date of receipt of copy of this order by promoting the petitioners to the post of Deputy Tahsildar from the date of their entitlement, with all consequential benefits.

This Writ Petition is allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petitions are closed.

Assistant Registrar (CS VIII)

Sub-Assistant Registrar



To

1. The Additional Chief Secretary/
Commissioner of Revenue Administration,
Chepauk,
Chennai-5.

2. The District Collector,
Namakkal District.

3. The Special Senior Revenue Inspector,
Sri Lankan Refugee Camp,
M. Mettupatti,
Mohanur Taluk,
Namakkal District-637 015.

+1 CC to Govt. Pleader sr 105806.

+1 CC to Mr. E. Pragasam, Advocate sr 105143.

+1 CC to Mr. S. Vijayakumar, Advocate sr 105056.

W.P.No.22235 of 2018

RP(CO)
SP(13/01/2020)