

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.16419 of 2019
and W.M.P.No.16083 of 2019

S.Subashini

...Petitioner

vs.

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

2.The District Collector,
Villupuram.

3.The District Collector,
Kanchipuram.

4.The District Revenue Officer,
Kanchipuram.

5.S.Jayavel,
Senior Head Assistant[Deputy Tahsildar]
B Section,
Collectorate,
Kanchipuram.

...Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to call for the records relating to the first respondent vide proceedings No.Rc.No.Ser IV[2]/26122/14 dated 21.3.19 and to quash the same and consequently direct the respondents to include the petitioner in the inter-se seniority list in the panel drawn for the year 2012-13 in the proceedings of the fourth respondent vide Na.Ka.No.28102/2012/A2 dated 24.8.2017 in the place of above Jayavel, 5th respondents, below Komala and accord promotion to the post of the Deputy Tahsildar for the year 2017/2018.

For Petitioner : Mr.S.Vijayakumar

For Respondent : Ms.A. Shrijayanthi

Additional Government Pleader

ORDER

The case of the petitioner is that the petitioner was appointed as Assistant through Tamil Nadu Public Service Commission in the year 2012 and she was allotted to the Revenue District of Villupuram. She joined as Assistant in Tindivanam Taluk Office on 14.03.2012 and her seniority was fixed by the Tamil Nadu Public Service Commission in terms of Rule 35[a] r/w f of Tamil Nadu State and Subordinate Service Rules. She also cleared Departmental Exams and her probation was declared on 26.06.2015 by the proceedings of the District Revenue Officer, Villupuram vide Na.Ka.No.A2/14907/2015 dated 26.06.2015.

2.While that being so, she had earlier opted for one way transfer to Kanchipuram District to join with her husband, who is also a Government servant working in Statistical Department of Kanchipuram District. Accordingly, she has submitted an application for one way transfer to the second respondent on 01.07.2013. Thereafter, her application for one way transfer was forwarded to the first respondent for appropriate orders. After getting consent from both the District Collectors / respondents 2 and 3 herein, the first respondent has approved the one way transfer application vide proceedings No.Rc.No.4[2]/26122/2014 dated 03.03.2015. Though the petitioner submitted application for one way transfer in the year 2013, the same was approved only after two years. In the meanwhile, the petitioner was deputed to Foundational Course Training at Bhavanisagar for the period from 15.11.2014 to 31.01.2015 and Land and Survey and Settlement Training, Orathanadu for the period from 12.03.2015 to 15.04.2015 and subsequently her probation was declared on 26.06.2015.

3.The petitioner joined in the Revenue Unit of Kanchipuram by virtue of the proceedings of the first respondent on 06.07.2015, the petitioner's probation was declared as early as on 24.05.2014 and the petitioner should be placed at the bottom of the approved probationer in the said year. In her case, the petitioner's probation was declared on 24.05.2014 as per the proceedings of the District Revenue Officer dated 26.06.2015. Thereafter, the petitioner was permitted to join Kanchipuram District on 06.07.2015, in such a case, the petitioner should have been placed above Jayavel below Komala whose probation was declared by the fourth respondent in his proceedings No.Rc.12681/2016/A2 dated 23.01.2017.

4.The petitioner was anxiously awaiting to receive a communication for her replacement in the interse seniority as aforesaid. However, she received a communication from the fourth respondent vide proceedings Na.Ka.No.28102/2012/A2 dated 24.08.2017 ignoring her interse seniority and declared the

probation of Komala as well as Jayavel, thereby her seniority was given a go by. As a result of which, she is not only deprived of her legitimate right to undergo Revenue Inspector training as well as her eligibility to become Deputy Tahsildar for the panel drawn for the year 2017/2018.

5. Aggrieved by the said illegal action, she submitted a representation to the respondents 3 and 4 on 08.11.2017 to include her name in the interse seniority list in the appropriate place in terms of the service Rules. Though her representation was received by the respondents, no action has been taken. Hence, the petitioner filed Writ Petition before this Court in W.P.No.15218/2018 and sought for a direction to direct the respondents to keep the petitioner at the bottom of the probation declared Assistants as on 26.06.2015, the date of the order of transfer or 06.07.2015 the date of joining in Kancheepuram District. According to petitioner, she should have been placed below the approved probationer in Kanchipuram District as on the date of joining as Assistant on 06.07.2015.

6. This Court by its order dated 23.07.2018, directed the respondent to consider the petitioner representation and pass orders within a period of eight weeks from the date of receipt of a copy of this order. The petitioner submitted a representation on 23.08.2018, enclosing a copy of the order of this Court and sought for refixing her seniority as on 06.07.2015. The fourth respondent passed an order dated 15.11.2018 vide proceedings No.Na.Ka. 28175/2013/A2, rejecting the petitioner's representation and placed the petitioner in the panel of Assistant drawn for the year 2015-2016 in Sl.No.26.

7. Aggrieved by the said order, the petitioner filed a Writ Petition in W.P.No.2146 of 2019, seeking to quash the order of the fourth respondent dated 15.11.2018 and sought for direction to include her name in the interse seniority list drawn for the year 2012-2013 and further direction to promote the petitioner for the post of Deputy Tahsildar for the year 2017.

8. This Court issued notice to the respondents, while the Writ Petition is pending before this Court, the first respondent passed impugned order dated 21.03.2019, thereby cancelling the declaration of the probation of the petitioner issued by the District Revenue Officer, Villupuram vide proceedings dated 26.06.2015, on the ground that no relaxation has been obtained from the Government. As against the order, the petitioner filed appeal on 23.11.2016 for refixing her seniority at the bottom of the approved probationer of Assistant in Kanchipuram District and it was also rejected by the first respondent.

9. Aggrieved by the said order, the petitioner filed the present Writ Petition before this Court.

10. Mr. S. Vijayakumar, learned counsel appearing for the petitioner would submit that though the petitioner recruited in the year 2012. Immediately thereafter, the respondent sent the petitioner for training as per Rule 38[b][ii] annexure 9 of the Tamil Nadu Ministerial and Subordinate Service Rules. After successful completion of the training, though the petitioner completed the training on 18.04.2015. However, the District Revenue Officer, Villupuram vide proceedings dated 26.06.2015 declaring the petitioner's probation on 24.05.2014 without obtaining relaxation from the Government. Hence he prayed for appropriate orders.

11. The present issue involved in this case as per the counter of the respondent that the petitioner sought for one way transfer to Kanchipuram District on 01.07.2013. The petitioner's application was sent by the District Collector, Villupuram to Kanchipuram District on 13.08.2013. On 20.03.2014, concurrence was accorded to the District Collector, Kanchipuram for absolving the petitioner to Kanchipuram District on one way. On 07.07.2014, the District Collector, Villupuram has submitted this one way transfer proposals of the petitioner to the Additional Chief Secretary/Commissioner of Revenue. After getting permission from TNPSC, the first respondent issued proceedings dated 03.03.2015 with conditions that the seniority of the petitioner will be fixed at last in the list of Probationer of Assistants on the date of her joining in this District that she will not object for the seniority to be fixed in this District and she will not file any case in any Court regarding the seniority.

12. The learned Government Advocate appearing for the respondent would submit that the petitioner joined as Directly Recruited Assistant in Villupuram District Revenue Unit on 14.03.2012 duly selected and allotted by TNPSC and the petitioner was placed on probation from that date and the petitioner has to complete her probation satisfactorily in a period of two years within a period of three years. She has applied for District transfer on 01.07.2013, while she was on probation. However, she has qualified herself by passing the required Departmental Examinations and Foundational Training at Bhavanisagar and Survey and Settlement Training in the year 2015 at her old District i.e., Villupuram and satisfactorily completed her probation, as declared by the District Revenue Officer, Villupuram vide proceedings dated 26.06.2015 stating that she has completed her probation on 24.05.2014 which is contrary to the fact. Accordingly, the petitioner requesting for

fixing interse seniority between Jayavel and Komala and accordingly, the petitioner submitted a representation which is imperfect.

13.The crucial issue involved in this case is whether the petitioner even prior to completion of her probation, completed the Survey and Settlement Training or not. Admittedly, the petitioner has completed the Survey and Settlement Training only on 18.04.2015. But, the District Revenue Officer, Villupuram vide proceedings dated 26.06.2015 has declared the probation of the writ petitioner on the normal date of completion of probation on 24.05.2014 A.N., even though the petitioner has completed the Survey and Settlement Training only on 18.04.2015.

14.The petitioner completed Foundational Course Training at Bhavanisagar for the period from 15.11.2014 to 03.01.2015. The first respondent has accepted the petitioner's application for District transfer to Kanchipuram District as probationer on 03.03.2015. After receiving that order, the District Revenue Officer, Villupuram has deputed the petitioner for Land Survey and Settlement Training, Orathanadu from 12.03.2015 to 15.04.2015 which should have been avoided by the District Revenue Officer, Villupuram. The petitioner was also very well known that she was transferred to Kanchipuram District on one way as probationer, she would have requested the District Revenue Officer, Villupuram to avoid her in deputing the Survey Land Training and Settlement Training. However, she has accepted the training in order to relieve her as an approved probationer to gain seniority in the District.

15.Since the petitioner not completed her training on 24.05.2014 and she has completed the Survey and Settlement Training training only on 18.04.2015, the probation of the petitioner was declared by the District Revenue Officer, Villupuram without obtaining relaxation of referent rules from the Government. Hence, the Order of District Revenue Officer, Villupuram proceedings dated 26.06.2015, declaring the probation of the writ petitioner on the normal date of completion on 24.05.2014 A.N., was cancelled for not obtaining appropriate rule relaxation from the Government and the District Collector, Villupuram was directed to re-examine the case of writ petitioner for declaration of probation on the date of acquiring necessary pre-requisite qualifications or on the normal date of completion of probation, depending on the merit of the case.

16.Considering the facts and circumstances of the case, I am not inclined to interfere with the impugned order passed by the first respondent. However, I am inclined to issue direction to direct the second respondent to consider the petitioner's case, if the petitioner otherwise eligible in accordance with rules

and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

17.With the above observation and direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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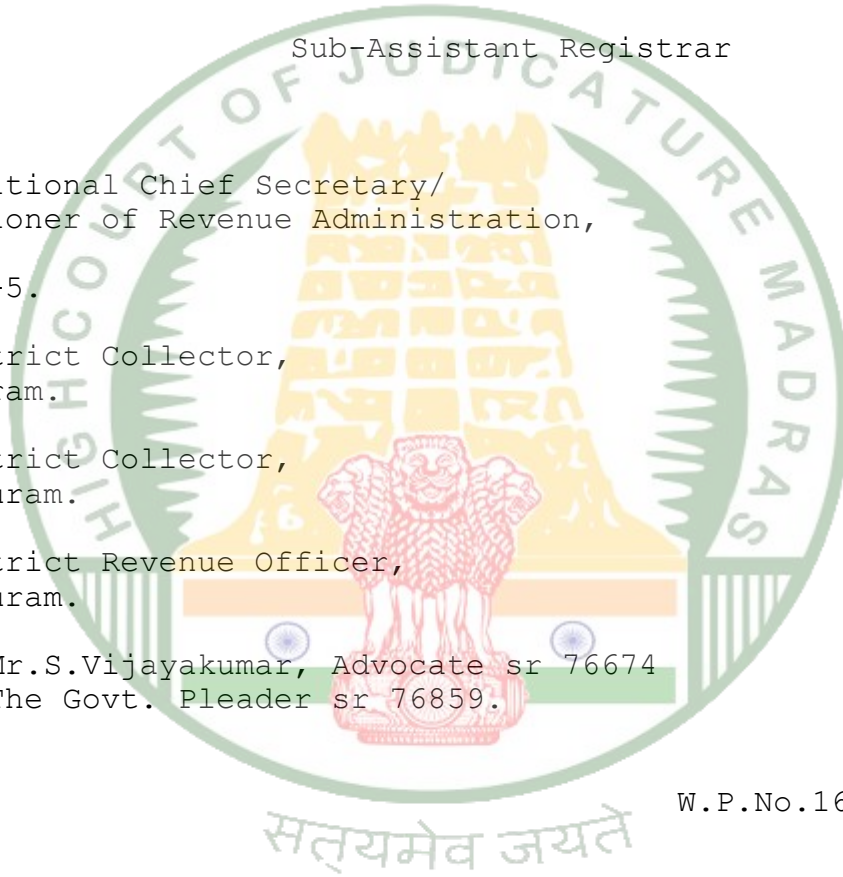
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+1 CC to Mr.S.Vijayakumar, Advocate sr 76674
+1 CC to The Govt. Pleader sr 76859.



W.P.No.16419 of 2019

MR (CO)
SP (16/10/2019)

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