

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2019

CORUM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Appeal No.914 of 2017
and
C.M.P.No.12731 of 2017

1. State of Tamil Nadu,
rep. by the Secretary to Government,
Personnel and Administrative Reforms Dept.,
Secretariat, Chennai - 600 009.
2. Principal Commissioner and
Commissioner of Revenue Administration
Revenue administration, Chepauk,
Chennai - 600 005.
3. District Collector,
Dharmapuri - 636 705
Dharmapuri District.

.... Appellants

Vs

A.Rajamanickam

.... Respondent

APPEAL filed under Clause 15 of the Letters Patent to set aside the order dated 20.07.2011 made in W.P.No.4482 of 2007.

WP.NO.4482/2007:

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the Government in G.O.Ms. No. 159, Personnel and Administrative Reforms Department dated 27.06.1994 insofar as it denies the benefit conferred on the physically handicapped persons in service for 1% reservation for further promotion or appointment by transfer of service and the consequential order passed by the 2nd respondent in his proceedings Roc. No.SEr.3(3)/26870/2000 dated 31.03.2001 and set aside the same and direct the Government to make suitable modification to the in-service

physically handicapped people also, and accordingly include the name of the petitioner in the panel of 1997 under physically handicapped quota and give promotion as Deputy Tahsildar with all consequential benefits.

For Appellants : Mrs.A.Sri Jayanthi
Special Government Pleader

For Respondent : Mr.P.Ganesan

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.,)

The learned single Judge after quashing the proceedings on the file of the second appellant herein directed the appellants to include the name of the respondent in the panel for 1997 for appointment to the post of Deputy Tahsildar under the Physically Handicapped quota. The said order is under challenge at the instance of the State.

2. We have heard the learned Special Government Pleader on behalf of the appellants. We have also heard the learned counsel for the respondent.

3. The respondent was appointed as Assistant in the Tamil Nadu Ministerial Service, more particularly in Revenue Department. He was eligible for appointment to the post of Deputy Tahsildar.

4. The mode of appointment to the post of Deputy Tahsildar is stated to be recruitment by transfer. The post is included in category 2 and the only mode is recruitment by transfer.

5. The claim made by the respondent that a percentage of the post should be reserved for physically handicapped, taking into account Rule 22 of the Tamil Nadu State and Subordinate Rules was negatived by the second appellant. It was the said order which was challenged before the learned single Judge.

6. Even in the Memorandum of appeal there is a clear indication that the mode of appointment is only by recruitment by transfer. When it was made out that recruitment is by way of transfer from the members of the Tamil Nadu Secretarial Service or Tamil Nadu Ministerial Service employed in the Revenue Department, Rule 22 of the Tamil Nadu State and Subordinate Rules would apply, meaning thereby, a particular percentage of post should be reserved for the physically handicapped.

7. The learned single Judge referred to Rule 6 of the Special Rules for Tamil Nadu Revenue Subordinate Service framed under Article 309 of the Constitution of India to quash the order passed by the second appellant.

8. Rule 6 of the above said Rules reads as follows:

'Subject to the provisions of Rule 5(d), the rule of reservation of appointments (General Rule 22) shall

apply to the category of Deputy Tahsildars in each district at the time of Selection for inclusion in the list.

(G.O.Ms.No.1256, Revenue, Dated 20.06.1977) (with effect from 20.06.1977)

Provided that this rule shall not apply to the appointment to the said category of Deputy Tahsildars if any person who was recruited to the Madras Ministerial Service as an Upper Division Clerk in the Revenue Department for Employment as Probationary Revenue Inspector.'

9. As per Rule 6 of the Special Rules, the authorities were expected to reserve posts for physically handicapped persons. The respondent appears to be the only candidate eligible for appointment to the post of Deputy Tahsildar being a physically handicapped.

10. Since the case of the respondent would come within the meaning of Rule 22 of the Tamil Nadu State and Subordinate Rules, the learned single Judge was perfectly justified in quashing the order impugned in the Writ Petition and issuing a consequential direction to the appellants to include his name in the panel for appointment to the post of Deputy Tahsildar. We do not find any error or illegality in the said order warranting interference in this intra Court appeal.

11. We are informed that pursuant to the order passed by the learned single Judge, the name of the respondent was included in the panel at serial number 7a for the panel year 1997. Since the appeal is pending before this Court, monetary benefits were not paid to him. We are also informed that the respondent had retired from service on attaining the age of superannuation.

12. We direct the appellants to implement the order passed by the learned single in its letter and spirit. Such exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this judgment.

13. The intra Court appeal is dismissed with the above observation. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

TO:

1. The Secretary to Government,
Personnel and Administrative Reforms Dept.,
Secretariat, Chennai - 600 009.
2. Principal Commissioner and
Commissioner of Revenue Administration
Revenue administration, Chepauk,
Chennai - 600 005.
3. District Collector,
Dharmapuri - 636 705
Dharmapuri District.

+1cc to Mr.P.Ganesan, Advocate sr.60940
+1cc to Government Pleader sr.61204

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nr 23/09/2019