

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.08.2020

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.10463 OF 2013

AND

M.P. NO. 1 OF 2013

S.Balaji

.. Petitioner

- Vs -

1. The Principal Secretary to Government
Revenue Department
Fort St. George, Chennai 600 009.

2. The Principal Secretary/Commissioner
of Survey & Settlement
Chepauk, Chennai 600 005.

3. The Addl. Director of Survey &
Land Records, Chepauk
Chennai 600 005.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari to call for the records relating to the order of the 3rd respondent dated 25.2.2013 in Na.Ka.Ka2/24625/2012 (Ni.A.) and quash the same.

For Petitioner : Mr. S.Kalyanaraman

For Respondents: Mr. A.N.Thambidurai, Spl. GP

ORDER

It is the case of the petitioner that by order dated 20.2.13, the petitioner was promoted to the post of Superintendent in the existing vacancy and he joined in the said post in the office of the 3rd respondent in the forenoon of 21.2.13. It is further averred that in the said promotion order, it was stated that certain clarifications were asked for with regard to filling up of the upgraded post of Administrative Officer as per G.O. (Ms.) No.354, Revenue Department, dated 13.12.12 and the said promotion would be subject to the orders of the Government to be obtained with regard to the letter dated 3.1.13.

2. It is averred by the petitioner that the Ministerial Employees Union of the Survey Department took up the issue as to the upgradation of the post of Superintendents as Administrative Officer on the surrender of the post of Superintendent and representation in this regard was given to the 1st respondent on 20.2.13. The procedure to be adopted with regard to surrender of the post of Superintendent was pointed out by the Union in their representation to the 1st respondent. However, in view of the clarification issued by the 1st respondent vide its letter dated 19.2.13 with regard to the clarification sought for by the 2nd respondent in its letter dated 3.1.13, the 3rd respondent reverted the petitioner to the previous post held by him, viz., Assistant by cancelling the promotion order issued to him as Superintendent. It is the case of the petitioner that the said reversion is not sustainable and representation was made to the 3rd respondent to modify the orders. Since the impugned order is wholly unsustainable, the present writ petition has been filed.

3. Learned counsel appearing for the petitioner, while reiterating the submissions advanced in the grounds raised in support of the writ petition, however, submitted that the even in the year 2013, the petitioner was aged 53 years and that he has no instructions from the petitioner as to the present status. It is further submitted by the learned counsel that the petitioner by now would have retired from service on reaching the age of superannuation at the age of 58 years.

4. This Court perused the materials available on record and it reveals that on the filing of the writ petition, though notice was ordered, the same was not admitted and there being no instructions as submitted by the learned counsel for the petitioner, this Court is inclined to consider the matter on merits to decide the issue.

5. A perusal of the records reveal that the petitioner, along with three persons were promoted in the post of Superintendent. While functioning so, on receipt of clarification from the 1st respondent, the petitioner was reverted to the post of Assistant. The clarification of the 1st respondent vide G.O. Ms. No.354, Revenue Department dated 13.12.12, reveals that consequent upon the upgradation of 4 posts of Superintendent as Administrative Officers the post of Administrative Officers had increased to 6 from the existing strength of 2 and consequently, the post of Superintendents had got reduced from 106 posts to 102 posts and, therefore, there exists no vacancy in the post of Superintendent. In such circumstances, there being no vacant post in the cadre of Superintendent, four persons, including the petitioner herein were reverted back to the post of Assistant. It is clearly

evident from the said letter dated 19.2.13 that since the posts were reduced, the promotion of the petitioner along with three other persons, were cancelled. In the absence of vacancy in the post of Superintendent, consequent upon the clarification given by the 1st respondent, the 3rd respondent reverted the petitioner to the post of Assistant. It is also to be mentioned here that even while the petitioner was promoted, it was made clear that the said promotion was subject to the clarification to be issued by the 1st respondent. In such circumstances, the reversion of the petitioner being on the basis of the clarification issued by the 1st respondent, this Court is of the opinion that no fault can be found with the impugned order passed by the 3rd respondent.

6. For the reasons aforesaid, this writ petition is devoid of merits and deserves to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government
Revenue Department
Fort St. George, Chennai 600 009.
2. The Principal Secretary/Commissioner
of Survey & Settlement
Chepauk, Chennai 600 005.
3. The Addl. Director of Survey &
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+1 cc to the Government Pleader Sr.No. 26858

W.P. NO. 10463 OF 2013

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