

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.34750 of 2005

and W.P.M.P.No.304 of 2009

V.Krishnan Kutty

..Petitioner

Vs

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

2.The Special Commissioner &
Director of Survey and Settlement,
Chepauk, Chennai - 600 005.

3.The Joint Director,
Central Survey Office,
Survey House, Chepuak,
Chennai - 600 005.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of certiorarified mandamus to call for the records connected with Government letter No.24366/Survey/4(1)/2004-6 dated 09.06.2005 on the file of the first respondent and quash the same and consequently to direct the 1st respondent to consider the petitioner's promotion on 01.07.2000, that is from the date when the post fell vacant and direct the respondents to give the petitioner promotion from the date on which the petitioner was posted as in charge of the post of Assistant Director (Drawing) and (Maps).

For Petitioner : Mr.S.Selvaraj

For Respondents : Mr.K.Magesh
Special Government Pleader

O R D E R

The petitioner has come forward with the present writ petition seeking for a issuance of Writ of Certiorarified Mandamus to quash the Government letter No.24366/Survey/4(1)/2004-6 dated 09.06.2005 issued by the first respondent and consequently to direct the first respondent to consider his promotion as on 01.07.2000.

2. Heard the learned counsel for the petitioner, learned Special Government Pleader for the respondents and perused the materials available on record.

3.1 According to the petitioner, he was appointed as a Junior Computer Draftsman on 20.08.1965 in the Department of Survey and Land Records under the Government of Tamil Nadu. After serving in various categories, he was promoted as a Technical Officer on 20.03.2000 and he was regularised from service on 20.05.2002 with effect from 20.03.2000. On 30.06.2000, the petitioner was ordered to take full charge of two higher posts of Assistant Director (Drawings) and Assistant Director (Maps) and he was also took full charge of the aforesaid two posts continuously without interruption from 30.06.2000 to 31.03.2004 till his retirement. It is further stated that the aforesaid two posts are to be filled up from the feeder category i.e. Technical Officer. Even though, when a vacancy was arose, there was no appointment. As per the Adhoc Rules, the selection panel has to be drawn from 09.08.2000 to 08.08.2001, the incumbent to be promoted should have occupied the post of Technical Officer as on 22.02.2000 and that he should not have completed the age of 57 years as on 01.07.2000.

3.2 It is further stated that on 25.09.2000, the second respondent sent recommendations to the first respondent to relax the Rules to grant promotion to the post of Assistant Director. The petitioner took charge as Technical Officer on 20.03.2000, but, the criteria is that the incumbent should hold the post as on 22.02.2000. Subsequently, on 20.08.2001, the second respondent sent a proposal panel for the appointment to the post of Assistant Director (Drawings) and Assistant Director (Maps) for the year 2001-2002. Further, the first respondent also sent a proposal to the Tamil Nadu Public Service Commission to appoint/ promote the petitioner to the aforesaid posts. As per G.O(1D) No.436 dated 29.03.2004 the petitioner was temporarily appointed as Assistant Director (Drawings) under 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules. Thereafter, the petitioner was retired from service after serving two days in the aforesaid post. Further, the second respondent sent recommendations to the first respondent to regularise the petitioner's service retrospectively with effect from 22.02.2001 and the same has not been considered. It is further stated that the proposal sent to the Department to appoint the petitioner in the said posts as early as on 25.09.2000, however, the appointment was made only on 29.03.2004, by causing a delay of 3 ½ years.

4. In the counter affidavit filed by the respondents, it has been stated that the qualification of the petitioner in the feeder category is Technical Officer. Further, the Assistant Director (Drawings) and Assistant Director (Maps) to be filled up from the feeder category post of Technical Officer. Since the previous officer retired from service, the

petitioner qualified for the said posts and he was in-charge of the said posts and allowed to work till 31.03.2004. However, the second respondent himself admitted that he sent a proposal to the first respondent and also made recommendations for appointment of the petitioner in the post of Assistant Director (Drawings). Due to the administrative reasons there was a delay for giving promotion to the petitioner and he was promoted in the said post only for two days, prior to his retirement. However, the petitioner's representation for regularise his service retrospective with effect from 22.02.2001 has not been considered and hence, the petitioner approached this Court by way of filing the writ petition.

5. Admittedly, the petitioner was serving in the respondents' Department in various level and subsequently, he got promotion as Technical Officer on 20.03.2000 and his service was regularised on 20.05.2002 with effect from 20.03.2000. Since the officer, who was holding the post of Assistant Director (Drawings) was retired from service, the petitioner took full charge to the posts of Assistant Director (Drawings) and Assistant Director (Maps) on 30.06.2000. From the date onwards the petitioner was holding two higher posts i.e., Assistant Director (Drawings) and Assistant Director (Maps) from 30.06.2000. Though the first respondent considered his service and recommendations of the second respondent, due to various administrative reasons, there was a delay and the petitioner was temporarily promoted as Assistant Director (Drawings) only on 29.03.2004 and retired from service on 31.03.2004. Since the petitioner was fully qualified for the said posts, he took full charge to the said post on 30.06.2000 and promoted only on 29.03.2004.

6. Considering the above facts and circumstances that the first respondent accepted the recommendations made by the second respondent and hence, the delay was occurred only due to administrative reasons. Therefore, this Court is of the view that the petitioner is to be regularised to the promotion post from 20.03.2000 and he is entitled to the notional benefits and hence, the first respondent is directed to give all the monetary benefits and consequently, extend the penisonary benefits to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

To

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

2.The Special Commissioner &
Director of Survey and Settlement,
Chepauk, Chennai - 600 005.

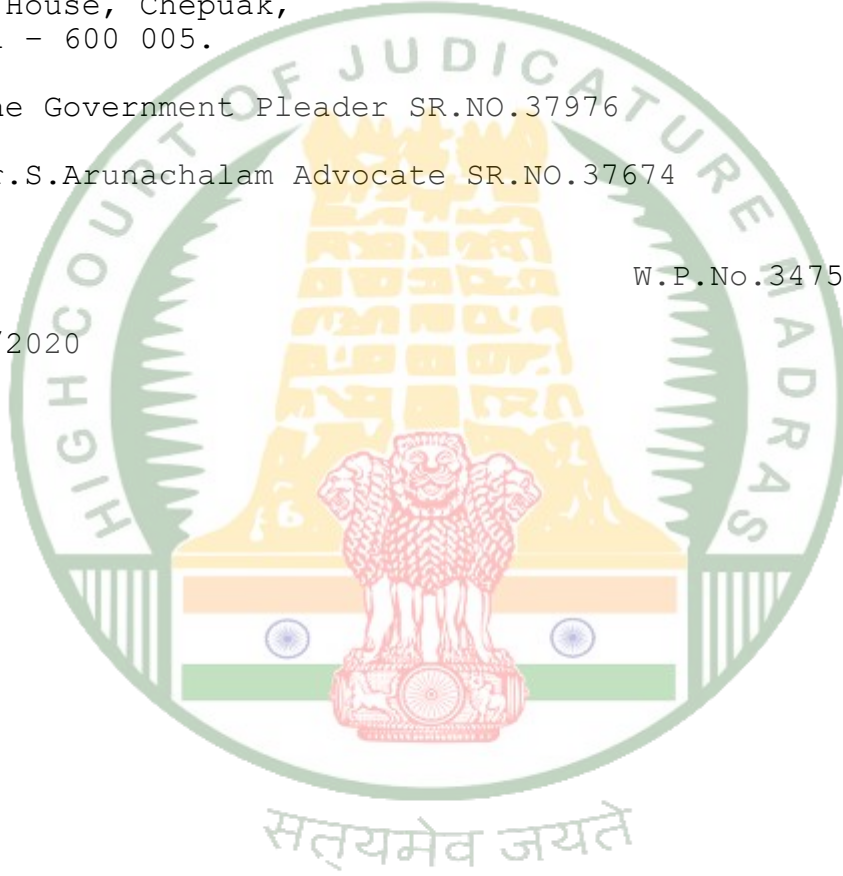
3.The Joint Director,
Central Survey Office,
Survey House, Chepuak,
Chennai - 600 005.

+1cc to the Government Pleader SR.NO.37976

+1cc to Mr.S.Arunachalam Advocate SR.NO.37674

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SV CO
SDR 18/12/2020



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