IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.2936 OF 2013

E.Govardhanam .. Petitioner

Vs.

1. The Government of Tamilnadu
Represented by its Secretary,
Department of Revenue,
Fort St.George, Chennai - 600 001.

2. The District Revenue Officer,
Office of the District Collector,
Thiruvallur, Thiruvallur District.

3. The Special Commissioner & Commissioner
of Revenue Administration,
Chepauk, Chennai - 600 005.

4. The Revenue Divisional Officer,
Tiruttani, Thiruvallur District.

5. The Tahsildar,
Tiruttani, Thiruvallur District.

6. V.Mani .. Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records from the second respondent, the District Revenue Officer, Thiruvallur in connection with Ref. No.NA.KA.9769/2007/A1 dated 05.11.2007 and Ref. No.MM.41190/2008 A1 dated 31.03.2008 rejecting the claim of the petitioner and quash the same and direct the Tahsildar, the fifth respondent to appoint the petitioner as Village Servant, Chivvada Village, Tiruttani Taluk, Thiruvallur District with continuity of service and full back wages and all other attendant benefits.

For Petitioner : Mr.K.Sudalai Kannu

For Respondents : Mr.S.Thangavel
Spl.Government Pleader - R1 to R5
Mr.S.Udayakumar - R6

ORDER

This Writ Petition has been filed challenging the rejection of the claim of the writ petitioner for appointment to the post of Village Assistant, Chivvada Village, Tiruttani Taluk, Thiruvallur District.

2. According to the learned counsel for the petitioner, the writ petitioner was appointed as a Village Assistant in Tiruttani Taluk as per the proceedings of the fifth respondent dated 20.03.1989. Challenging the aforesaid appointment, the sixth respondent filed an appeal on 28.04.1989. In the aforesaid appeal, the Revenue Divisional Officer had set aside the Order of appointment of the petitioner and appointed the sixth respondent as a Village Assistant. Challenging the said order, the writ petitioner filed a Review Petition on 03.08.1989 before the District Revenue Officer against the Order of the Revenue Divisional officer, Thiruvallur and the sixth respondent also filed a review petition on 08.10.1990. The District Revenue Officer remanded both the petitions to the Revenue Divisional Officer to consider the matter afresh. After remand, the Revenue Divisional Officer, rejected both the petitions filed by the petitioner as well as the six respondent and directed the fifth respondent to pass fresh Orders in accordance with rules. Challenging the same, the sixth respondent filed Original Application No.1089 of 1991 before the Tribunal and the aforesaid Original Application was allowed and the same was remitted to the District Revenue Officer to consider afresh. On receipt of the same, the District Revenue Officer had directed the fifth respondent to take appropriate decision and the fifth respondent passed Order appointing the sixth respondent as Village Assistant. Challenging the said order, the petitioner preferred an appeal before the Revenue Divisional Officer and the Revenue Divisional Officer passed an order by directing the fifth respondent to appoint the petitioner as Village Assistant in a nearby village in Tiruttani Taluk. The petitioner preferred a petition before the District Revenue Officer and the same was rejected by the District Revenue Officer by relying upon G.O.No.429 dated 08.08.2007, which is under challenge in the present writ petition.

3. According to the learned counsel for the petitioner, the Revenue Divisional Officer passed an Order in the appeal

preferred by the petitioner and directed the Tahsildar to issue appointment Order to the petitioner as Village Assistant in a nearby village. In the application filed by the writ petitioner, the District Revenue Officer has rejected the claim of the petitioner by relying on the Government Order No.429 dated 08.08.2007, which is illegal and erroneous and the same is liable to be set aside.

4. The learned counsel for the respondent submitted that the Revenue Divisional Officer passed the Order dated 10.01.2007 directing the Tahsildar to issue an appointment Order to the petitioner in a nearby village in Tiruttani Taluk. Against the said Order, the writ petitioner filed a revision petition before the District Revenue Officer and the District Revenue Officer by relying on the G.O.No.429 dated 08.08.2007, rejected the request of the petitioner. According to the learned Government Pleader, the District Revenue Officer passed the Order on 31.03.2008 and the petitioner approached this Court only in the year 2013, after a lapse of 5 years. At the time of filing of this writ petition, the petitioner has crossed the age of 58 years, therefore, no relief can be granted to the petitioner at this stage.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and perused the materials available on record.

6. On an analysis of the aforesaid submissions of the parties concerned and on a perusal of the materials on record, it is seen that the writ petitioner was originally appointed as a Village Assistant by the Tahsildar on 20.03.1989 and the said appointment Order was challenged before the Revenue Divisional Officer and the same was set aside and an Order was passed in favour of the sixth respondent by the Revenue Divisional Officer. Thereafter, as stated in the earlier paragraph, appeals have been filed and the matter has been dealt before various forums by both the parties. Finally, the Revenue Divisional Officer passed an Order on 10.01.2007 in favour of the writ petitioner by directing the Tahsildar, the fifth respondent herein, to provide appointment to the petitioner in a nearby village in Tiruttani Taluk. Based on the said Order, a revision petition has been filed by the petitioner. Thereby, the District Revenue Officer passed the impugned Order.

7. The Revenue Divisional Officer passed an order as early on 10.01.2007 by directing the Thasildar to issue appointment order to the writ petitioner as Village Assistant. But the writ petitioner had preferred Revision Petition to the District Revenue Officer on 09.04.2007 and the came to be rejected by the

District Revenue Officer on 05.11.2007, by relying on the Government Order in G.O.Ms.429 dated 08.08.2007. But the aforesaid Government Order relied on by the District Revenue Officer is unsustainable and the same will apply only to prospective candidates. Whereas, the Revenue Divisional Officer had passed the Order on 10.01.2007, which is much prior to the aforesaid Order dated 08.08.2007 passed by the Government. But, the writ petitioner has not approached this Court within a reasonable time, he preferred the present writ petition only in the year 2013, which clearly hit by latches. Further, the petitioner has crossed his age at 58 years at the time of filing this writ petition.

8. Under Article 226 of the Constitution of India, there is no time limit for filing a Writ Petition. However, there should be a reasonable time to file the writ petition, for seeking appointment, seniority or promotion. Though reasonable time is not prescribed in the rules, the words "reasonable time'', as explained in Veerayeeammal v. Seeniammal reported in 2002 (1) SCC 134, at Paragraph 13, is extracted hereunder:

> "13. The word "reasonable" has in law prima facie meaning of reasonable in regard to those circumstances of which the person concerned is called upon to act reasonably knows or ought to know as to what was reasonable. It may be unreasonable to give an exact definition of the word "reasonable". The reason varies in its conclusion according to idiosyncrasy of the individual and the time and circumstances in which he thinks. The dictionary meaning of the "reasonable time" is to be so much time as is necessary, under the circumstances, to do conveniently what the contract or duty requires should be done in a particular case. In other words it means, as soon as circumstances permit. In P. Ramanatha Aiyar"s The Law Lexicon it is defined to mean:
>
> > "A reasonable time, looking at all the circumstances of the case; a reasonable time under ordinary circumstances; as soon as circumstances will permit; so much time as is necessary under the circumstances, conveniently to do what the contract requires should be done; some more protracted space than "directly"; such length of time as may fairly, and properly, and reasonably be allowed or required, having regard to the nature of the act or duty and to the attending circumstances; all these convey more or less the same idea."

9. Further, with regard to laches, it is useful to extract the relevant portion of the observations made by the Hon'ble Supreme Court in the following cases;

(i). In Board of Secondary Education of Assam Vs.Mohd. Sarifuz Zaman, reporte in (2003) 12 SCC 408:

> "12. Delay defeats discretion and loss of limitation destroys the remedy itself. Delay amounting to laches results in benefit of discretionary power being denied on principles of equity. Loss of limitation resulting into depriving of the remedy, is a principle based on public policy and utility and not equity alone ...."

(ii). In Karnataka Power Corpn. Ltd.,Vs.K. Thangappan reported in (2006) 4 SCC 322 ;

> "6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party".

10. In the light of the decision cited supra and considering the fact that the writ petitioner had already crossed the age of superannuation and approached this Court belatedly for the relief, undoubtedly the present writ petition suffers from delay and latches and the same is liable to be rejected on the ground of delay of latches.

11. In fine, the Writ Petition is dismissed. No cost.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vrc/ak

To

1. The Secretary,
   Department of Revenue,
   Fort St. George, Chennai - 600 001.

2. The District Revenue Officer,
   Office of the District Collector,
   Thiruvallur, Thiruvallur District.

3. The Special Commissioner & Commissioner
   of Revenue Administration,
   Chepauk, Chennai - 600 005.

4. The Revenue Divisional Officer,
   Tiruttani, Thiruvallur District.

5. The Tahsildar,
   Tiruttani, Thiruvallur District.

+1cc to Mr.K.Sudalai Kannu, Advocate, S.R.No.12473
+1cc to Mr.S.Udayakumar, Advocate, S.R.No.12084
+1cc to the Government Pleader, S.R.No.13062

W.P.No.2936 of 2013

MP(CO)
CS/17/07/2020