

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.05.2021
CORAM :
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
W.P.No.11746 of 2021

D. Ravindran

...Petitioner

Vs

1. The Director
Surveyor and Document Departments
Survey House
Chepauk
Chennai 600 005.

2. The Assistant Director
Survey and Document Department
Salem.

...Respondents.

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to consider the Petitioner's representation dated 16.04.2021 and to direct the respondents to provide one more opportunity/year to complete the one paper/Department test.

For Petitioner : Mr.V.Udayakumar

For Respondents: Mr.Kamalesh Kannan
Government Advocate

ORDER

The prayer sought for in this writ petition herein for a writ of mandamus, to direct the respondents to provide one more opportunity/year to complete the one paper/Department test.

2. The petitioner was appointed as Surveyor on compassionate appointment by order dated 09.07.2014. Accordingly, the petitioner's service has been subsequently regularised and he has been continuously working in the respondent Department as Land Surveyor.

3. As per the procedure in vogue, he has to clear the departmental test, consisting of four papers, out of which except one paper, namely, Field Surveyor - Paper 2, all other papers, the petitioner has cleared in the year 2017 - 2018.

4. However, the remaining one paper which the petitioner though written the examination for twice, could not clear the same and he has once again written the same examination which, was held in February 2020. However, the result of the said examination is yet to be published during Covid - 19 pandemic.

5. When that being the position, the petitioner while he was in Covid duty, suffered with an accident and because of which, he had to take treatment and in the meanwhile, no subsequent exam also had been conducted for clearing the Field Surveyor - Paper 2.

6. Therefore, since the petitioner has not completed the fourth paper, i.e., Field Surveyor - Paper 2, on that ground, the second respondent issued a notice to the petitioner on 19.03.2021 stating that, unless proof for having passed the said paper within thirty days is submitted, which shall be deemed to be that he has not passed out the said paper and on that ground, he would be discharged from service.

7. On receipt of the said show cause notice or communication from the respondent, the petitioner had given a representation-cum-request, dated 16.04.2021 to the first respondent, requesting him to give one year time to complete the said departmental exam paper, i.e., Field Surveyor - Paper 2. The said representation since has not been considered, he has filed the present writ petition with the aforesaid prayer.

8. Heard Mr.V.Udayakumar, learned counsel appearing for the petitioner, who having reiterating the aforesaid would seek indulgence of this Court to give direction to the respondents to consider the representation of the petitioner and to extend the time for completing the said paper, viz., Field Surveyor - Paper 2 for one year.

9. However, Mr.Kamalesh Kannan, learned Government Advocate appearing for the respondents would submit that, admittedly the petitioner has attended last such examination, where he has written the said Field Surveyor - Paper 2, on 15.02.2020, and according to him, the result is yet to be published, due to Covid 19 pandemic.

10. If that being so, once the result is published then, it would be known where the petitioner stands and if he succeeds in the paper, there could no impediment for him to continue in service. However, if he has not cleared the paper even in the said examination taken place on 15.02.2020 also, the request of the petitioner made through the representation, will be considered by the respondents on merits and in accordance with law.

11. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

12. The petitioner has cleared all other papers in the year 2018 itself, except one paper, viz., Field Surveyor - Paper 2 and in 2020 exam also, he has written the examination on 15.02.2020 as he averred in para 6 of the affidavit filed in support of this writ petition and the result of the same since has not been published so far, due to the alleged Covid 19 Pandemic reason or otherwise, the petitioner can wait till the result is published for the said examination, dated 15.02.2020

and if he become successful in the said examination, as rightly pointed out by the learned Government Advocate, the petitioner would not have any further impediment to continue his job.

13. Instead if he still fails in the said examination also, the representation of the petitioner, dated 16.04.2021 can be considered by the first respondent by taking into account the aforesaid reasons which has been cited by the petitioner for his non-completion of the said Field Surveyor - Paper 2 and accordingly, decide the same for giving extension atleast till the next examination is conducted and the result is published in this regard.

14. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders :

(i) That there shall be a direction to the first respondent, to consider the representation of the petitioner, dated 16.04.2021, in case, the petitioner fail in his attempt which he has already undertaken on 15.02.2020 and consider for grant of extension at least till the next examination result is published where the petitioner without fail should appear and get it successfully to clear the paper, i.e., Field Surveyor - Paper 2, as a last chance.

(ii) The aforesaid indulgence can be shown by the first respondent by deciding the aforesaid representation of the petitioner as indicated above, only depending upon the result to be published on the examination, dated 15.02.2020 and thereafter, the needful as indicated can be undertaken and till such time no further coercive action can be taken against the petitioner, pursuant to the show cause notice, dated 19.03.2021.

15. With these directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsvn

To

1. The Director

Surveyor and Document Departments

Survey House

Chepauk

Chennai 600 005.

2. The Assistant Director
Survey and Document Department
Salem.

+1 cc to M/s.V.Udayakumar, Advocate, SR.NO.27197

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CP(CO)
NS(13/05/2021)



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