IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

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THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.No.14670 of 2021
and
W.M.P.No.15567 of 2021

M.Loganathan ...Petitioner

Vs.

1.The Principal Secretary/
Revenue Administrative Commissioner,
Chepauk, Chennai.

2.The District Collector,
Thiruvannamalai,
Thiruvannamalai District.

3.The District Revenue Officer,
Thiruvannamalai,
Thiruvannamalai District.

4.Special Tahsildar,
SIPCO Land Acquisition,
Cheyyar. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the Impugned Order issued by the 1st respondents' letter No.3(1)/31374/2017 dated 15.12.2017 and consequential order passed by the 2nd respondent proceedings in Na.Ka.No.16449/2017 dated 26.06.2019 and quash the same and direct the respondents to give notional promotion for the post Deputy Tahsildar with effect from 28.09.2017 and give all monetary benefit to the petitioner and on par his Junior.

For Petitioner .. Mr.R.Govindasamy

For Respondents .. Mr.L.S.M.Hasan Fizal
Additional Government Pleader

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus calling for the records of the Impugned Order issued by the first respondent's letter No.3 (1)/31374/2017 dated 15.12.2017 and consequential order passed by the second respondent in proceedings in Na.Ka.No. 16449/2017 dated 26.06.2019 and quash the same and direct the respondents to give notional promotion for the post Deputy Tahsildar with effect from 28.09.2017 and give all monetary benefit to the petitioner on par with his Junior.

2.The case of the petitioner is that he was appointed as Village Administrative Officer recruited through Tamil Nadu Public Service Commission (TNPSC) and was appointed on 23.5.1984. Thereafter, he was promoted to the post of Assistant and further promoted as Revenue Inspector on 23.01.2014. However, the petitioner could not be promoted to the next higher post, as he could not pass the requisite Departmental Examination.

3. In this regard, the petitioner appeared to have submitted representations to the authorities concerned seeking exemption from writing the Departmental Examinations. After a lapse of considerable time, the first respondent issued G.O.No.(2D).291, Revenue and Disaster Management Department, dated 28.09.2017, by relaxing the relevant Rules and granted exemption from writing the qualifying Departmental Examination. However, the petitioner, in the meanwhile, retired from service on 30.09.2017.

4. According to the petitioner, on the basis of exemption being granted to him from writing the Departmental Examination, he was entitled to be promoted as a Deputy Tahsildar. Since the promotion had not been granted, the petitioner was constrained to approach this Court by filing a Writ Petition in W.P.No.16928 of 2019 and this Court, vide order dated 17.09.2019, dismissed the said Writ Petition on the ground that no Mandamus could be issued in view of the rejection of the applicant's request, vide proceedings of the authorities dated 26.06.2019. Challenging the rejection order dated 26.06.2019, the present writ petition has been filed.

5. In response to the notice issued by this Court on behalf of the official respondents, Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader entered appearance and counter affidavit has also been filed.

6. In the counter affidavit, in substance, it has been stated that the petitioner appeared for the Departmental

Examination from 2012 and did not clear. Only after reaching the age of 53 years, he had applied for exemption on 23.06.2017, when he was due for retirement on 30.09.2017. According to the counter affidavit, the petitioner was at fault for not getting the benefit of relaxation of Rules for promotion earlier.

7. The objection taken on behalf of the official respondents is that the petitioner, having stood retired from service on 30.09.2017, cannot seek retrospective promotion after his retirement, regardless of the passing of the G.O granting exemption to the petitioner. The petitioner could have sought relaxation from the Government much earlier to his retirement and he, having failed to secure the relaxation order, cannot seek the present relief at a belated stage.

8. From the above factual narrative, the only objection from the respondents, seems to be that the petitioner stood retired from service after attaining the age of superannuation with effect from 30.09.2017. The relaxation granted to the petitioner from appearing for the Departmental Examination, is admitted and the Government Order was also passed to that effect. The stand as disclosed on behalf of the respondent is the factum of the petitioner's retirement from service and whether his retirement could be a crucial factor for denial of due promotion to the petitioner, after the relaxation was granted by the Government, is the core consideration of this Court here under.

9. As far as the objection of the respondents is concerned, the eligibility for promotion of the petitioner on the due date mentioned in the prayer, is not disputed. As narrated above opposition to the claim of the petitioner is that he appeared to have obtained the required relaxation at a belated stage on the eve of his retirement. But the fact of the matter is that the relaxation was granted by the Government and such relaxation would have no meaning or purpose if the petitioner was to be ultimately denied the benefit of the relaxation order.

10.The petitioner had applied to the Government for relaxation only with the sole view to advance his career progression by way of promotion to the next higher post viz, Deputy Tahsildar and if such benefit was not to be forth-coming, as a consequence of the relaxation order, the efforts taken by the petitioner to get the relaxation order from the Government, albeit in the eve of the retirement, meant an exercise in complete futility.

11.Since the objection is only in regard to the retirement of the petitioner immediately after the relaxation order was passed, this Court does not think that the petitioner can be deprived of his promotion if it was otherwise due to him, on notional basis.

12.In the above circumstances, the impugned order dated 15.12.2017 in No.3(1)/31374/2017 issued by the first respondent and consequential proceedings dated 26.06.2019 in Na.Ka.No.16449/2017 issued by the second respondent, are hereby set aside.

13. The respondents are directed to grant notional promotion to the petitioner, if he was otherwise eligible for promotion from the due date as admissible to him.

14. On such promotion being granted to the petitioner, he shall be entitled to all the retirement benefits calculated on notional basis and the pensionary benefits shall also to be refixed and paid, accordingly.

15. The respondents are directed to pass appropriate order, in this regard within a period of eight weeks from the date of receipt of a copy of this order, or on production of a web-copy of this order, whichever is earlier.

16. With the above directions, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

ms/sli

To

1.The Principal Secretary/
Revenue Administrative Commissioner,
Chepauk, Chennai.

2.The District Collector,
Thiruvannamalai,
Thiruvannamalai District.

3.The District Revenue Officer,
Thiruvannamalai,
Thiruvannamalai District.

4.The Special Tahsildar,
SIPCO Land Acquisition,
Cheyyar.

+1cc to Mr.R.Govindasamy, Advocate SR.No.68968

+1cc to Government Pleader SR.No.69052

W.P.No.14670 of 2021
and
W.M.P.No.15567 of 2021

GPL(CO)
GMY(04/02/2022)