

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.21070 OF 2014

AND

M.P.NO.1 OF 2014

S.Srinivasan

... Petitioner

Vs.

1. The Government of Tamilnadu
Rep. by its Secretary to Government,
Revenue Department,
Chennai - 600 005.

2. The Assistant Director,
Land Surveys & Records Dept.,
Kanchipuram - 631 001.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus to quash the G.O.No.168 of Revenue (Ne.A.4(1) Dept. dated 29.04.2014 of the Secretary to Government, Revenue Department, the first respondent herein and consequential letter Na.Ka.A1/5722/2010 dated 30.04.2014 of the Assistant Director, Land Survey and Records Department, Kanchipuram, the second respondent herein and directing the respondent to grant pension for the service rendered from 1984 to 2014.

For Petitioner : Mr.J.Ravikumar
for M/s.V.Sankaranarayanan

For Respondents : Mr.J.Ramesh
Additional Government Pleader

O R D E R

The petitioner has filed this writ petition seeking to quash the order passed by the first respondent dated 29.04.2014 and the consequential letter passed by the second respondent dated 30.04.2014 and to direct the respondents to grant pension for the service rendered by him from 1984 to 2014.

2.The case of the petitioner is that he joined the service as a Section Writer in the year 1984 on daily wages basis and his services were regularized on 10.12.1997 while he was working as Draughtsman. The petitioner had to clear the Special Test for Draughtsman category, within a period of five years. He had cleared Test Papers 1 and 4, however, he could not clear Test Papers 2 and 3. Hence, he sent a representation seeking exemption from Test Papers 2 and 3, however, no orders were passed on his representation, instead, the impugned orders came to be passed. Hence, this writ petition.

3.The respondents have filed a counter affidavit stating that since the petitioner did not pass the departmental examinations, even after 16 years, his services were terminated on 30.04.2014. It is further stated that the representation of the petitioner was examined with reports of the second respondent and based on the report, proposals were sent to the Government in full shape by the Principal Secretary/ Commissioner of Survey and Settlement in Na.Ka.No.3/36387 dated 03.08.2012 requesting to give exemption to the petitioner from passing the departmental tests as he has satisfied the conditions laid down in G.O.Ms.No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984.

4.It is further stated in the counter affidavit that the Government examined the proposals sent by the Principal Secretary/ Commissioner of Survey and Settlement and issued the impugned order dated 29.04.2014, stating that the concessions given in G.O.Ms.No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984 are not applicable to those who have not completed the probation period even after extended period of 5 years and that since the petitioner did not pass the departmental tests even after the extended period of 5 years of probation, the Government rejected the proposal.

5.The learned counsel appearing for the petitioner submitted that the respondents without considering the petitioner's request for exemption from passing Test Papers 2 and 3 of the departmental examination, has passed the impugned Government Order refusing his claim and the impugned letter terminating the petitioner from service. He further submitted that earlier the Madurai Bench of this Court has dealt with similar issue in W.P (MD) No.6421 of 2008 and vide order dated 25.03.2014, has quashed the impugned orders therein and prays for similar order in this writ petition.

6.It is useful to extract hereunder the relevant portion of the order dated 25.03.2014 passed in W.P(MD) No.6421 of 2008:

"5.The sum and substance of the case is that admittedly the petitioner would come under the purview of G.O.Ms.No.1120, dated 30.10.1984, only in the year 1994. The respondents will not have any objection for granting benefits from the eligible period. Therefore, the impugned orders of the respondents are hereby quashed and the respondents are directed to consider the case of the petitioner from the date, on which he is eligible for increments and other benefits, as per the G.O.Ms.No.1120 dated 30.10.1984 and pass appropriate orders, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order."

7.Following the order dated 25.03.2014 passed in W.P(MD) No.6421 of 2008, this writ petition stands allowed with regard to the settlement of retirement benefits. Such benefits be paid within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Revenue Department,
Chennai - 600 005.
2. The Assistant Director,
Land Surveys & Records Dept.,
Kanchipuram - 631 001.

+1cc to M/s.V.Sankaranarayanan, Advocate, S.R.No.14382
+1cc to the Government Pleader, S.R.No.14588

W.P.No.21070 of 2014
And
M.P.No.1 of 2014

AAB(CO)
CS/01/04/2021