



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 06.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.16342 of 2017

and

W.M.P.Nos.17667 & 17668 of 2017

M.Marimuthu Pandian

...Petitioner

Vs

1. The Secretary to Government,
Revenue Department,
Fort St. George, Chennai-9
2. The Principal Secretary &
Commissioner of Revenue Administration
Chepauk, Chennai-5.
3. The Principal Secretary &
Commissioner of Urban Land Ceiling &
Urban Land Tax,
Ezhilagam, Chepauk, Chennai-5.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in connection with the impugned order passed by him in Letter No.6873/SER-I/2017-4 dated 05.05.2017 and quash the same in so far as the petitioner is concerned and direct the respondents to consider the claim of the petitioner for inclusion of his name in the list of Deputy Collectors for the year 2016-17 published in G.O.Ms.No.165, Revenue (Ser-I) Department dated 05.05.2017 in the appropriate place and promote him as Deputy Collector and grant him all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkatramani
Senior Counsel
for Mr.M.Muthappan

For Respondents: Mr.K.V.Sajeev Kumar
Government Counsel



ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

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2. The petitioner herein, while working as a Superintendent in the office of the Commissioner of Urban Land Ceiling and Land Tax, was included in the regular list of Assistant Commissioner for the year 2012-13 for appointment by recruitment by transfer for the post of Assistant Commissioner (ULT). Subsequently, for the preparation of panel of Deputy Collector for recruitment by transfer for the year 2016-17, the Principal Secretary/Commissioner of Revenue Administration had called for proposals from the head of the departments and the crucial date for consideration for the Deputy Collector panel for the year 2016-17 was fixed at 31.12.2014.

3. Rule 2(b) of the Special Rules for the Tamil Nadu Civil Services prescribes the feeder category for the post of Deputy Collector for recruitment by transfer from the Tamil Nadu Revenue Subordinate Service and from among the Superintendents of the Office of the Board of Revenue, the Director of Survey and Settlement, the Director of Harijan Welfare, the Commissioner of Civil Supplies, the Director of Land Reforms and from the Section Officers of the Secretariat.

4. While preparing the temporary list for the year 2016-17 for the post of Deputy Collector by recruitment by transfer, the petitioner's name was omitted as 'not fit for inclusion', through the impugned proceedings dated 05.05.2017, which is under challenge in the present writ petition.

5. The learned Senior Counsel appearing for the petitioner would submit that under the Tamil Nadu Civil Services Rules, the petitioner is entitled to seek for recruitment by transfer to the post of Deputy Collector and therefore, the action of the respondent in not including the petitioner's name in the panel for the year 2016-17 is incorrect.

6. The learned Government Counsel appearing for the respondents placed reliance on the averments made in the counter affidavit and submitted that the petitioner herein has already been promoted as an Assistant Commissioner (ULT), which is not in the feeder category to the post of Deputy Collector and therefore, his name was not included.

7. The learned Senior Counsel appearing for the petitioner would fairly submit that the post of Assistant Commissioner (ULT) may not be termed as a feeder category. But, however, he placed reliance on the various Government Orders passed in



atleast 3 cases, which were produced before this Court, wherein, the Government had relaxed such a condition to candidates who did not hold the post equivalent to that of a feeder category and since such relaxations were extended to similarly placed employees, the petitioner also deserves consideration.

8. When the Special Rules for the Tamil Nadu Civil Services does not prescribe the post of Assistant Commissioner (ULT) as a feeder category to the post of Deputy Collector for the purpose of recruitment by transfer for the year 2016-17, it cannot be stated that the action of the respondent in not including the petitioner's name in the temporary list of Deputy Collector for the year 2016-17 is illegal, since the petitioner happens to hold the post of Assistant Commissioner (ULT) as on the crucial date of the panel.

9. This Court, exercising its powers under Article 226 of the Constitution of India, cannot take into account the relaxations granted in favour of other employees by the Government and apply the same to the case of the petitioner herein, on the ground of discrimination, especially when the regulations do not prescribe any mode of relaxation or other rules to enable the employee holding the post of Assistant Commissioner to be recruited by transfer to the post of Deputy Collector. The representation given by the petitioner on 26.02.2016 seeking for such a recruitment by transfer also does not seek for any relaxation of the rules for this purpose.

10. At this juncture, the learned Senior Counsel for the petitioner would submit that the petitioner is willing to seek for relaxation and that the Government may consider such request favourably.

11. As already observed in this order, the Government had relaxed such a condition, in G.O.(2D) No.230 Revenue (Ser. I-2) Department dated 19.05.2003 in the case of one Thiru.R.M.Rajendren, Assistant Commissioner (ULT); in G.O.(2D) No.31 Revenue (Ser. I-2) Department dated 24.01.2005 in the case of Thiru.B.Venkatasubramanian, Assistant Commissioner (ULT); and in G.O.(2D) No.335 Revenue (Ser. I) Department dated 03.07.2008 in the case of one Thiru.S.Muthusamy, Tahsildar. Since the Government had already considered the cases of the aforesaid 3 persons, who also did not hold the post of a feeder category for promotion by transfer as a Deputy Collector, it would be appropriate to grant liberty to the petitioner to seek for similar relaxation.

12. In the light of the above observations, no interference is required to the impugned order dated 05.05.2017, since I do not find any illegality on the part of the respondent in



omitting the name of the petitioner in the temporary list for the year 2016-17 for the post of Deputy Collector (recruitment by transfer). However, in view of the earlier decisions taken by the Government to relax the conditions, the petitioner herein is granted liberty to make an appropriate representation to the Government seeking for relaxation, as stated above, as expeditiously as possible and on receipt of such a representation, the first respondent shall consider the same on its own merits and pass appropriate orders in accordance with law, within a period of 3 months from the date of receipt of the representation.

13. The writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Secretary to Government,
Revenue Department,
Fort St George, Chennai-9
2. The Principal Secretary &
Commissioner of Revenue Administration
Chepauk, Chennai-5.
3. The Principal Secretary &
Commissioner of Urban Land Ceiling &
Urban Land Tax,
Ezhiilagam, Chepauk, Chennai-5.

+1cc to M/s.M.Muthappan, Advocate, S.R.No.31758

W.P.No.16342 of 2017
and
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RSV(CO)
RGA(09/08/2021)