BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2021

CORAM:

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM
AND
The Hon'ble Mrs.JUSTICE S.ANANTHI

W.A.(MD).No.200 of 2019
C.M.P.(MD).No.1633 of 2019

1.The Principal Secretary to Government,
Revenue Department,
Secretariat,
Chennai-600 009.

2.The Principal Secretary and
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The District Collector,
Tiruchirappalli District,
Tiruchirappalli. ...Appellants/Respondents

Vs.

S.Renuka,
Now Special Tahsildar (L.A)
Unit-1, TNPL.,
Manapparai,
Tiruchirappalli District. ... Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed by the learned Judge, dated 25.04.2018 made in W.P(MD).No.8115 of 2018 on the file of this Court.

Prayer in WP(MD). 8115/ 2018 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling records of the second respondent relating to the Principal Secretary and Commissioner of Revenue Administration, Chennnai passed No.Ser3(5)/22289/2017 dated 04.09.2017 communicated by the Collector in his endorsement number A3/32131/2010 dated 22.09.2017 and quash the same and consequently direct the second and third respondents i.e. the Principal Secretary and Commissioner of Revenue

Administration, Chennai and the District Collector, Tiruchirappalli, District to include the name of the petitioner in the approved list of Deputy Tahsildars of the year 2008, according to her seniority in the feeder category within a specified time frame that may be fixed by this Court.

For Appellants : Mr.A.K.Manickkam
Government Counsel

For Respondent : Mr.S.Visvalingam

J U D G M E N T

[Judgment of the Court was delivered by **T.S.SIVAGNANAM,J.**]

This appeal has been filed by the Government challenging the order and direction in W.P(MD).No.8115 of 2018 filed by the respondent, Tmt.S.Renuka dated 25.04.2018.

2. Heard, Mr.A.K.Manickam, learned Government Counsel appearing for the appellants and Mr.S.Visvalingam, learned counsel appearing for the respondent.

3. The said writ petition was filed by the respondent for issuance of a writ of Certiorarified Mandamus, to quash the proceedings of the second appellant dated 04.09.2017 and for a consequential direction to the appellants to include the name of the respondent in the approved list of the Deputy Tahsildar for the year 2008, according to her seniority in the feeder category.

4. The only reason assigned in the order impugned in the writ petition is that the respondent has not completed five years of service within a crucial date for inclusion in the Panel of Deputy Tahsildar for the year 2008. The other reason given is that the respondent has not completed one year and eight months of service in the Collectorate or any office service before the crucial date (i.e.,) on 15.09.2008. Both the grounds, on which the respondent was denied the relief, were negatived and the writ petition was allowed. Sofar as the reason that the respondent has not completed the requisite period of service in the Collectorate or any office service, can hardly be a reason to deny inclusion in the Panel, because posting a person in the Collectorate or any office service is with the Head of the Department and the employee does not have an option to choose to do service in a particular establishment.

5. With regard to the second aspect, the respondent was on maternity leave for a period of three months. The question is whether the said period can be treated as a service period. This issue is well settled and there are several decisions which have been passed by this Court, wherein the periods spent during the maternity leave have been treated as service period. If that is so,

then the case of the respondent would be squarely covered by the decision taken by the second respondent in the case of Tmt.N.Praveena Mary. Therefore, the learned Single Bench was right in allowing the writ petition by referring to the order passed by the second appellant in the case of Tmt.N.Praveena Mary (supra).

6. One observation made by the learned Single Bench in paragraph No.12 of the impugned order would require certain clarifications. The learned Single Bench has held that the provisions of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 are with retrospective effect. This observation would be incorrect because the Act came into force on 15.10.2016. In any event, this will no manner affect the relief to which the respondent is entitled to. The distinction, which is sought to be made by the appellants stating that the respondent is a Direct Recruit Assistant, is also an artificial distinction, because the period during the maternity leave is treated as service period. The respondent is entitled to her name being included in the panel of Deputy Tahsildar for the year 2008. Thus, we find that there is no error in the order and directions issued by the learned Writ Court.

7. In the result, the Writ Appeal fails and stands dismissed. The order and the directions passed in the writ petition shall be implemented by the appellants 2 and 3 within a period of three months from the date on which a copy of this judgment is received. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb/tta

Note : *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

To

1.The Principal Secretary to Government,
Revenue Department,
Secretariat,
Chennai-600 009.

2.The Principal Secretary and
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

+1 CC to M/s.SPL GP (SR-19118[F] dated 09/06/2021)

Order made in
W.A.(MD).No.200 of 2019
Dated:**08.06.2021**

SE(CO)
TR(16.06.2021) 4P 5C