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W.P.No.8120 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

**W.P.No.8120 of 2020 &
W.M.P.Nos.9642 & 9643 of 2020**

S.Rajakumar

... Petitioner

VS.

- 1.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Services Wing, (Ser.3(2) Section,
Fort St. George,
Chennai - 600 009.
- 2.The Principal Chief Secretary/Commissioner of Revenue Administration,
Chepauk,
Chennai - 600 005.
- 3.The Commissioner of Land Administration,
Chepauk,
Chennai - 600 005.
- 4.The District Collector,
Tiruvallur .

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus calling for the records relating to the order dated 26.11.2019 in G.O.(1D).No.567 and quash the same and consequently



direct the respondent to include the name of the petitioner in the list of City Deputy Tahsildar 2006 and promote the petitioner as Deputy Collector with effect from the date on which his Juniors were promoted.

For Petitioner : Mr.Arl. Sundaresan,
Senior Counsel,
for Mrs.Al.Ganthimathi

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

ORDER

This writ petition has been filed challenging the order dated 26.11.2019 passed in G.O.(1D).No.567 by the first respondent rejecting the petitioner's request for inclusion of his name in the promotional panel for the purpose of Deputy Tahsildar (City List) in the year 2006.

2. The case of the petitioner is as follows:

(i) He joined service in the District Revenue Unit at Ramanathapuram as a Junior Assistant through selection by the Tamil Nadu Public Service Commission on 05.01.1993. In the said post, he completed his probation on 04.02.1995. Thereafter, he was promoted as Assistant through the panel of Assistant for the year 1995 and was also regularized in the cadre of



Assistant with effect from 04.01.1996 in Ramanathapuram District Unit.

Thereafter, his services were lent to the office of the Commissioner of Land Administration where he joined as an Assistant on 24.12.1996. According to him, due to some delay on the part of the authorities concerned on the administrative side, the concurrence from Tamil Nadu Public Service Commission for the petitioner's transfer to the office of the Commissioner of Land Administration was obtained only on 19.01.1999. According to him, as per the orders of the Commissioner of Revenue Administration dated 21.07.2011, he was allowed to join in Thiruvallur District Unit. Accordingly, he joined in the Thiruvallur District Unit on 10.10.2011.

(ii) He had given a representation on 03.10.2011 to the respondents stating that he was fully eligible for promotion to the post of Deputy Tahsildar as early as in the year 2003 itself and as such, his name should have been included in the panel for the year 2006 instead of 2007 and requested for inclusion of his name in the year 2006, since there was a vacancy for the post of Deputy Tahsildar in the year 2006. The said representation was taken into consideration and the Joint Commissioner Revenue Administration sent proposals to the third respondent for recommendations. Subsequently, on 14.05.2013, the third respondent sent a



report of the Commissioner of Revenue Administration along with all the details with regard to the services rendered by him and recommendations were also made.

(iii) Once again on 27.12.2013, he made another representation stating the aforementioned facts. However, on 23.01.2017, the first respondent in G.O.(2D).No.18 rejected the request of the petitioner to include his name in the panel for City List of Deputy Tahsildar for the year 2006 stating that the petitioner's name was recommended to be included only in the year 2007 and on perusal of the records, it was found that the person who was found in the City List of Deputy Tahsildar for the year 2006 is not junior to him and is a senior in service to him.

(iv) He filed a review before the first respondent stating that even though he had joined in the Office of the Commissioner of Land Administration on 27.12.1996, concurrence was obtained belatedly only on 19.01.1999 and it does not mean that the petitioner has competed eight years of service only in the year 2007. Therefore, according to the petitioner, he is eligible to be included in the City List of Deputy Tahsildar in the year 2007 and his name ought to have been included in the year 2006 itself, since the petitioner was eligible for promotion to the post of Deputy Tahsildar as



early as in the year 2003. The petitioner has also submitted in his review petition that in a similar circumstance, one Girirani was included in the City List of Deputy Tahsildar for the year 2010 itself, inspite of the fact that concurrence was obtained from the Tamil Nadu Public Service Commission only on 25.01.2010 and further submitted that the names of his juniors who were included in the City List of Deputy Tahsildar for the year 2006, have been promoted as Tahsildar and now working as Deputy Collector.

(v) However, the review petition has been rejected, by order dated 26.11.2019 in G.O.(1D).No.567 which is impugned in this writ petition.

3. A counter affidavit has been filed by the respondents reiterating their contentions as recorded in the impugned G.O.(1D).No.567 dated 26.11.2019. Their main contention is that the petitioner has joined as Assistant in the office of Commissioner of Land Administration on loan basis on 24.12.1996 and he opted for applying transfer to Land Administration Department and only after joining the said Department, concurrence was obtained from the Tamil Nadu Public Service Commission on 19.01.1999 and therefore, eight years period which is the eligibility requirement for seeking promotion will fall only in the year 2007 and



therefore, rightly, the petitioner was granted promotion as per the panel drawn in the year 2007. According to them, the petitioner is not entitled for being promoted as per panel of 2006. It is also contended by the respondents that only after the inclusion of his name in the panel in the year 2007, the petitioner has raised objection and prior to the said issue, he has not raised any objection nor has he staked any claim for including his name in the 2006 panel. Only in accordance with procedure, the panel was drawn for the year 2007 including the name of the petitioner.

4. Heard Mr.Arl.Sundaresan, learned Senior Counsel representing Mrs.Al.Ganthimathi, learned counsel for the petitioner and Mr.L.S.M. Hasan Fizal, learned Additional Government Pleader appearing for the respondents.

5. Learned Senior Counsel for the petitioner drew the attention of this Court to the impugned G.O.(1D).No.567 dated 26.11.2019 which is the order passed in the review petition filed by the petitioner and in particular, he referred to column Nos.2, 3 & 4 in the reply submitted by the third respondent (Government) before the first respondent. The relevant replies given by the third respondent in the aforementioned columns are reproduced



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hereunder:

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Sl.No.	Grounds submitted for consideration in the Review Petition	Reply / Counter submitted on the grounds
1	..	..
2	Two Eligible persons can be included in the City list of Deputy Tahsildar 2006 under Segment III, but only one person namely Thiru S.Sureshkumar was included in the list of DT 2006 and one more person's name can be included in the City list of DT 2006. The seniority between Thiru.S.Sureshkumar and the petitioner is no way affected for the relief sought by the petitioner.	Two Eligibility persons can be included in the Segment - III of the City List of Deputy Tahsildar 2006. But one person namely Thiru.s.Sureshkumar only was included in the list. Hence there is a vacancy left unfilled for want of qualified hands. The appellant was junior to Thiru.S.Sureshkumar. The seniority in the cadre of Assistant is as follows: S.Sureshkumar - 45 S.Rajakumar - 49 Hence, it was recommended vide this office letter dated 26.11.2015 that the request of the petitioner may be considered for inclusion in the Deputy Tahsildar List 2006 in vacancy left unfilled under Segment III.
3.	The City List of Deputy Tahsildar for the year 2005 to 2010 was published on 01.04.2011. The names of the seniors of the petitioner was included in the City List of Deputy Tahsildar for the year 2005. However, the petitioner's name should be included in the City List of Deputy Tahsildar for the year 2006, since he got eligibility to include his name in the City List of Deputy Tahsildar for the year 2003.	The request of the petitioner for inclusion in the City List of Deputy Tahsildar 2006 was considered based on the recommendation of the HOD of Land Administration Department (ACS/CLA) and the same was recommended vide this office letter dated 26.11.2015 and 22.09.2016. The Government vide G.O.(2D).No.18, Revenue (SER-3(2)) Department dated 23.01.2017 rejected the request of the petitioner stating that even though the petitioner was having



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Sl.No.	Grounds submitted for consideration in the Review Petition	Reply / Counter submitted on the grounds
		qualification for inclusion in the City list of Deputy Tahsildar 2006, his name could not be included in the said list as no junior to the petitioner was included in the list and only a senior to the petitioner namely Thiru.S.Sureshkumar was included in the said list.
4	On transfer the petitioner reported to the HOD of Land Administration Department on 27.12.1996 and concurrence of TNPSC was obtained belatedly by the Department only on 19.01.1999 and therefore, it does not mean that the petitioner have completed 8 years service during the year 2007. The Government have failed to observe that the concurrence for one Tmt.Girirani was obtained on 25.01.2010 but her name included in the City List of DT 2010 itself. Further 8 year of service of the petitioner have completed during the year 2004 itself.	Based on the concurrence for Department transfer in respect of the individual from TNPSC letter 19.01.1999, the Additional Chief Secretary/Commissioner of Land Administration considered his claim and recommended for inclusion of his name in 2006 City list of Deputy Tahsildar and the same was recommended to Government. Eventhough the petitioner completed 8 years of service during the year 2007 from the date of issue of concurrence by TNPSC on 19.01.1999, his case was considered on par with Tmt.Girirani, Directly Recruited Assistant who was included in the City List of Deputy Tahsildar 2010 after obtaining TNPSC concurrence on 25.01.2010 and recommended for the inclusion of her name in the City list of Deputy Tahsildar 2006. The Government vide, G.O. (2D) No.18, Revenue [SER-3(2)] Department, dated 23.01.2017 rejected the request of the



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Sl.No.	<i>Grounds submitted for consideration in the Review Petition</i>	<i>Reply / Counter submitted on the grounds</i>
		petitioner.
..	..	..

6. After referring to the aforementioned replies submitted by the third respondent, learned Senior Counsel appearing for the petitioner would submit that there were vacancies for the panel 2006 for the post of Deputy Tahsildar. He would also submit that it is also made clear in column 2 of the reply of the third respondent that there was a vacancy left unfilled for want of qualified hands. He would also submit that the reply sent in Column No.2 of the impugned G.O. also makes it clear that S.Suresh Kumar, who has already been included in the year 2006 panel is Senior to the petitioner and it was recommended vide its office letter of the third respondent dated 26.11.2015 that the request of the petitioner may be considered for inclusion in the Deputy Tahsildar list 2006 panel in the vacancy left unfilled under segment III. He would further submit that similarly, the reply given by the third respondent before the first respondent, as seen from column 3 makes it clear that the petitioner was having qualification for his inclusion in the City List of Deputy Tahsildar and his name could not be included in the city list



as no Junior to the petitioner was included in the said panel and only a senior to the petitioner namely S.Suresh Kumar was included in the said list.

He would also submit that in column 4 of the impugned G.O., the third respondent has replied before the first respondent that even though the petitioner completed eight years of service during the year 2007 from the date of issue of concurrence by the Tamil Nadu Public Service Commission on 19.01.1999, his case was considered on par with one Girirani, directly recruited Assistant who was included in the City List of Deputy Tahsildar 2010, after obtaining concurrence from the Tamil Nadu Public Service Commission on 25.01.2010 and recommended for the inclusion of her name in the City List of Deputy Tahsildar 2006. As seen from the above reply, Girirani, the directly recruited Assistant has been included in the 2006 panel, though the Tamil Nadu Public Service Commission gave concurrence for her appointment only on 25.01.2010.

7. Learned Senior Counsel also drew the attention of this Court to the impugned G.O. passed by the first respondent and would submit that without assigning any reasons, despite the fact that the third respondent has made the aforementioned observations in their reply, the first respondent has rejected the petitioner's review petition.



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8. Per contra, learned Additional Government Pleader appearing for the respondents would reiterate the contents of the counter affidavit filed before this Court and would submit that only in accordance with law, the petitioner's request for inclusion of his name in the 2006 panel was rejected.

9. Admittedly, under the impugned order, no reasons have been given for rejecting the petitioner's request excepting for observing that after careful examination of the review petition of the petitioner, the first respondent rejected the review petition as devoid of merits as he has not quoted any new reasons for consideration.

10. The reply given by the third respondent before the first respondent which were referred to by the learned Senior Counsel for the petitioner which has been extracted supra by this Court has not been considered in the impugned G.O. As seen from the said reply, there was an unfilled vacancy for the panel 2006. The reply also records the fact that the petitioner was Junior to S.Suresh Kumar who was included in the 2006 panel. The reply also records the fact that the recommendation was sent on 26.11.2015



requesting for considering the case of the petitioner for inclusion of his name in the Deputy Tahsildar List in the vacancy left unfilled under segment III.

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11. The third respondent has also admitted in the reply before the first respondent that the petitioner was having qualification for being included in the City List of Deputy Tahsildar 2006, but he was not included in the said list as no junior to the petitioner was included in the said list and only a senior to the petitioner namely S.Sureshkumar was included in the said list. The third respondent also in the reply before the first respondent has stated that the petitioner had completed eight years of service as of 2007 from the date of issue of concurrence by the Tamil Nadu Public Service Commission on 19.01.1999 and his case was considered on par with Giri Rani, Directly Recruited Assistant who was included in the City List of Deputy Tahsildar after obtaining Tamil Nadu Public Service Commission's concurrence on 25.01.2010 and recommended for inclusion of her name in the 2006 panel.

12. No reasons have been given as to why Girirani was included in the 2006 panel, despite the fact that Tamil Nadu Public Service Commission's



concurrency for her was obtained only on 25.01.2010, whereas the Tamil Nadu Public Service Commission's concurrence for the petitioner was given in the year 1999 itself. No reasons have been given in the impugned G.O. by the first respondent, despite the aforementioned admissions made by the third respondent with regard to the petitioner's eligibility to be included in the year 2006 panel. Excepting for stating that the Government after careful examination of the petitioner's request, rejected the same as devoid of merits, no reasons have been given by the first respondent with regard to the reply submitted by the third respondent before them, which has been extracted supra. By total non application of mind to the contentions of the third respondent, the first respondent has rejected the petitioner's request for inclusion of his name in the year 2006 panel. Therefore, the impugned G.O. dated 26.11.2019 passed by the first respondent in G.O.(1D).No.567 has to be quashed and remanded back for fresh consideration on merits and in accordance with law.

13. For the foregoing reasons, the impugned G.O. dated 26.11.2019 passed by the first respondent in G.O.(1D).No.567 is hereby quashed and the matter is remanded back to the first respondent for fresh consideration



on merits and in accordance with law. The first respondent shall give due consideration to the observations recorded by this Court in the light of the aforementioned paragraphs and thereafter, pass final orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this Order.

14. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

02.11.2022

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Index:Yes/No

Speaking/Non-speaking orders

To

1.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Revenue and Disaster Management Department,

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Services Wing, (Ser.3(2) Section,
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- 2.The Principal Chief Secretary/Commissioner of Revenue Administration,
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ABDUL QUDDHOSE, J.
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