

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14315 of 2014

C.P.Ragunathan

...Petitioner

Vs.

1. The Inspector General of Registration,
Santhome, Chennai 28.

2. The District Registrar,
Coimbatore.

3. The Sub Registrar,
Ganapathy Sub Registry,
Coimbatore.

...Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in connection with the impugned order passed by the 3rd respondent in No.281/2013 dated 06.05.2013 and quash the same and further direct the respondents to issue the document writer license to the petitioner and grant such other further relief.

For Petitioner : Mr.S.Sivakumar

For Respondents: Mr.Yogesh Kannadasan
Spl. Government Pleader

O R D E R

The petitioner has filed this petition for issuance of writ of Certiorarified Mandamus to call for the records of the impugned order passed by the 3rd respondent, dated 06.05.2013 and quash the same and further direct the respondents to issue the document writer license to the petitioner and grant such other further relief.

2.The case of the petitioner is that the petitioner is a graduate in Arts (Economics) and entered into service in the Registration Department as 'Junior Assistant' in the year 1971 and by merit and seniority, the petitioner was promoted as Assistant in the year 1993 and thereafter, he attained the age of superannuation on 31.08.2006 and subsequently he was also

given notional promotion as SRO Grade II by an order dated 07.07.2011. It is alleged by the petitioner that as per the Tamil Nadu Documents Writers License Rules, 'any retired official of the Registration Department who has served in a post not below the rank of Sub Registrar' is entitled to apply for document writer license. Since the petitioner having the required qualification, and he is retired official of the Registration Department and further the 1st respondent also issued the notional promotion as SRO Grade II, he is entitled for document writer license. Accordingly, the petitioner made application on 10.07.2012 for issuance of license, and after receipt of the application, the 2nd respondent forwarded the application to the 1st respondent to issue a license. Thereafter, the 1st respondent without any application of mind, had simply rejected the application by issuing the non speaking order dated 06.05.2013, stating that the petitioner is not eligible for issuance of document writer license as per Rule 4(iii) of the Tamil Nadu Document Writers License Rule, 1982. Aggrieved by the same, the present petition is filed.

3.The learned counsel appearing for the petitioner submitted that though the petitioner became fully qualified for grant of the licence, his application was rejected vide the impugned order without any plausible reason and when the petitioner approached the respondents, they informed that though the petitioner was promoted as SRO-Grade II it was a notional promotion and that the petitioner has not actually served as SRO.

4.The learned counsel appearing for the petitioner further submitted that the present impugned order was passed without application of mind, and without assigning any reasons. As per Rule 4, any retired official of Registration Department, who had the required qualification to be appointed as a Sub Registrar are eligible for the grant of a license. In the present case on hand, the qualification for the post of Sub Registrar is that the person must have served in the feeder category as Assistant in the Registration Department. Further, already the petitioner has served as an Assistant and possessed the required the qualification for Assistant as well as Sub Registrar. In spite of the same, the respondent has passed the rejection order, which is non est in law and prays for allowing of this petition.

5.The learned Special Government Pleader appearing for the respondents submitted that the petitioner retired from service and at the time of his retirement, he did not serve as Sub Registrar and therefore, his application for grant of license was rejected in terms of Rule 4(3)(iii) of the above said Rules, vide the impugned order. A cursory reading of Rule 4(3)(iii) framed under the Registration Act would go to show that no person shall be not eligible for a license unless he has passed

the Document Writers' License Test held by the Inspector General of Registration and any retired official of the Registration Department who has served in a post not below the rank of Sub Registrar would become eligible for appointment as a Document Writer. This being so, the petitioner has never served as a full time Sub Registrar and subsequent to his retirement, he was only given a notional promotion and the relevant rule is very clear that an official, who has served in the post of a Sub Registrar alone will be entitled to get a document writers' license.

6.The learned Special Government Pleader appearing for the official respondents further submitted that in the case on hand, the petitioner was in charge as Sub Registrar for certain period which will not clothe him to come within the meaning of having served as a Sub Registrar and therefore, the impugned order was passed in accordance with law and the same does not warrant interference of this Court and prays for dismissal of this petition.

7.This Court has carefully considered the rival submissions and also perused the materials available on record.

8.Facts in the present case is not in dispute that the petitioner is a retired employee of the Registration Department and he served post of Junior Assistant in the year 1993 and retired as Assistant on 31.08.2006 which is feeder category for the post of Sub Registrar, and subsequently he was given notional promotion as Sub Registrar Grade II on 07.07.2011, though he attained the age of superannuation on 31.08.2006.

9.In the above factual matrix, the crux of the issue revolves around Rule 4 of the Tamil Nadu Document Writers' License Rules, 1982, which is quoted hereunder:

4. Eligibility for licences-(1) No person shall be eligible for a clicense unless he has passed the Document Writer's License Test held by the Licensing Authority.

(2) Notwithstanding anything contained in sub rule 9(1) above, the following persons are eligible for the grant of a licence:

(iii) Any retired official of the Registration Department who had the required qualifications to be appointed as a Sub Registrar;

10.Even a bare perusal of the above provision makes it clear that the retired official of the Registration Department, who acquired the qualification to hold the post of Sub Registrar, are eligible for grant of licence. In th present case on hand, initially the petitioner worked in the feeder category of Assistant and retired from service. Subsequently he was granted

notional promotion as Sub Registrar. From the above, it is evident that on and from 07.07.2011 the petitioner was fully qualified and entitled for promotion to the post of Sub Registrar and due to administrative lacunae, the promotion, on time, was not granted to the petitioner, but has been granted notionally at a later point of time. That being the undisputable position, on a reading of Rule 4, it is evident that the petitioner is entitled for grant of Document Writers' License. Further as per the Tamil Nadu Registration Subordinate Service Rules, 1967, it is contemplated that for qualification to the post of Sub Registrars II Grade, the person must have served as Assistant in the Registration Department. When such being the position, the petitioner who worked as Assistant in the Registration Department is considered to be fully qualified for the post of Sub Registrar on the date when he was granted notional promotion, it should be presumed that he is also entitled for grant of license and therefore, the impugned order suffers from non-application of mind and is liable to be set aside.

11. For the reasons aforesaid, this Writ Petition is allowed and the impugned order passed by the 3rd respondent in proceedings No.281/2013 dated 06.05.2013, is set aside and the respondents are directed to grant Document Writers' License in favour of the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
Santhome, Chennai 28.
2. The District Registrar,
Coimbatore.
3. The Sub Registrar,
Ganapathy Sub Registry,
Coimbatore.

+1cc to Mr.S.Sivakumar, Advocate, S.R.No.20102

+1cc to the Government Pleader, S.R.No.20592

W.P.No.14315 of 2014

NRL(CO)

RGA(27/04/2022)