



WEB COPY



W.P.Nos.11280 to 11284 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.11280 to 11284 of 2017

and

W.M.P.Nos.12204 to 12208 of 2017

K.Natesan	...Petitioner in W.P.No.11280 of 2017
R.Nagamanickam	...Petitioner in W.P.No.11281 of 2017
C.Alavamuthu	...Petitioner in W.P.No.11282 of 2017
K.Sengodan	...Petitioner in W.P.No.11283 of 2017
P.Karuppannan	...Petitioner in W.P.No.11284 of 2017

Vs.

1.The Government of Tamil Nadu,
Rep.by Secretary to Government,
Revenue Department,
Secretariat,
Chennai – 600 009.

2.The Additional Director of Survey and
Settlement,
Survey House, Chepauk,
Chennai – 600 005.

3.The Assistant Director of Survey and
Land Records, Salem.

..Respondents in all W.Ps



W.P.Nos.11280 to 11284 of 2017

Common Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to Na.Ka.No.A3/9061/2012 dated 11.2.2013 passed by the 3rd respondent and quash the same in so far it relates to not granting notional benefit for the purpose of increment and pensionary benefits to the petitioner and further direct the respondents to grant notional benefits from date of regularization of service of the petitioner in the cadre of Field Surveyor viz. 01.7.1984 for the purpose of increment and pensionary benefits.

For Petitioners : Mr.K.S.Viswanathan
[in all W.Ps]

For Respondents : Mr.T.K.Saravanan
Government Advocate
[in all W.Ps]

COMMON ORDER

The order of rejection rejecting the claim of the writ petitioners for grant of monetary benefits consequent to the notional regularisation of their services pursuant to the Court orders, is under challenge in the present writ petitions.

2. Regarding the claim of the writ petitioners, this Court has already



W.P.Nos.11280 to 11284 of 2017

considered the issues and passed orders in writ petitions in ***W.P.Nos.478 to 480 of 2015*** on ***05.08.2022*** and the relevant paragraphs of the said order are extracted hereunder:

“2. The writ petitioners were holding the post of Deputy Inspector of Survey and retired from service. They were appointed in the Survey Department and their initial appointment was to the post of Surveyor cum Draftsman on consolidated pay and thereafter, the petitioners were brought under the regular time scale of pay in the post of Surveyor.

3. The fixation of seniority was erroneously done by the Competent Authorities during the relevant point of time. Thus the petitioners approached the Tamil Nadu Administrative Tribunal and the original applications filed by the other employees, were allowed and, the matter went to Supreme Court. The Hon'ble Supreme Court of India said that the Government published the final seniority list and the challenge made before the Tribunal was the provisional seniority list and further, it is brought to the notice of the Supreme Court that the final seniority list was acted upon for grant of further promotion to the employees. Thus the Supreme Court confirmed the final seniority list and directed the Government to follow the said seniority list and accordingly effect the revisions wherever required.



4. Pursuant to the orders of the Supreme Court, the Government also issued orders in G.O.Ms.No.425, Revenue Department, dated 27.11.2012. Accordingly, the seniority of the employees was revised based on the final seniority list, which was confirmed. The seniority of the writ petitioners was revised and notional promotions were granted from the date on which their immediate juniors were promoted.

5. The petitioners state that though the third respondent passed an order in proceedings dated 10.01.2013, 18.01.2013, 11.02.2013 and 11.02.2013 respectively bringing the petitioners in the time scale of pay in the cadre of Field Surveyor and fixed the seniority. However, the third respondent has restricted the revision of seniority by giving notional benefits without extending the monetary benefits. Thus the petitioners are constrained to move the present writ petitions.

6. The respondents filed the counter-affidavit stating that the Government in G.O.Ms.No.60, Revenue Department, dated 09.02.2001, regularised the services of the Field Surveyors and Draftsmen, who were absorbed from consolidated pay post by following the seniority alone as ordered in O.A.No.199 of 1990 by the Tribunal, which was



WEB COPY



W.P.Nos.11280 to 11284 of 2017

upheld by the Hon'ble Supreme Court of India. While regularising the services of persons in the G.O.Ms.No.60, the Government had regularised the services of some persons whose services were regularised on the date on which they were actually working in consolidated pay. Thus the Government cancelled the order passed in G.O.Ms.No.60, Revenue Department, dated 09.02.2001 by passing G.O.Ms.No.507, Revenue Department, dated 16.11.2004. As per G.O.Ms.No.376, Revenue Department, dated 13.06.2006, the services of the writ petitioners were regularised in the category of Field Surveyor with effect from 28.03.1988.

7. Subsequently, the High Court of Madras in its order dated 26.08.2003 in batch of cases set aside the orders of the Tamil Nadu Administrative Tribunal passed in O.A.No.199 of 1990 dated 09.09.1991. If the High Court orders are implemented in all the Districts, the entire settled and finalised seniority list, which was done as per the instructions issued in 1995 in obedience of the orders of the Tamil Nadu Administrative Tribunal in O.A.No.199 of 1990, which has got the approval of the Hon'ble Supreme Court of India, will be unsettled. Hence, the Department filed Special Leave Petition and in the meanwhile, one of the respondents Mr.Thiru M.Pachiannan challenged the final orders of the High Court in WP No.18505 of 1998 before the Supreme Court of India. The



Supreme Court finally confirmed the final seniority list published by the Government, which was acted upon for the purpose of extending the notional promotion to all the petitioners.

8. It is contended that the Commissioner of Survey and Settlement, based on the orders in G.O.Ms.No.425, Revenue Department, dated 27.11.2012, the Assistant Director of Survey and Land Records, Salem in proceedings respectively dated 10.01.2013, 18.01.2013, 11.02.2013 and 11.02.2013 revising the orders of regularisation with effect from 01.07.1984 instead of 28.03.1988 in the category of Field Surveyor and regularised the services of the petitioners with effect from 01.07.1984 notionally declaring that the notional date of completion of probation of the petitioners as 30.06.1986 with the condition that based on the above dates, further promotions will alone be regulated and no monetary benefits will be granted.

9. The learned counsel for the petitioners mainly contended that when the notional promotions were extended pursuant to the orders of the Hon'ble Supreme Court of India, there is no reason to deny the monetary benefits to the writ petitioners. The issue was pending before the Court all along and the services of the writ petitioners were regularised with



retrospective effect. While doing so, the monetary benefits also to be extended in favour of the writ petitioners. It is not the fault of the writ petitioners and the mistake committed by the Department, cannot be the reason to deny the rightful benefit of the writ petitioners as of now and they have retired from service.

10. The learned Additional Government Pleader, appearing on behalf of the respondents, objected the contentions raised on behalf of the writ petitioners, by stating that the Government issued orders in G.O.Ms.No.425, Revenue Department, dated 27.11.2012, clearly stating that the persons are eligible for notional promotion without monetary benefits. Even after passing of the Tribunal order, the Government made it clear that during the relevant point of time that the revision of seniority and the consequential notional promotion would not confer any further right to claim the monetary benefits with retrospective effect.

11. Perusal of the said Government Order, issued in G.O.Ms.No.425, Revenue Department, dated 27.11.2012, reveals that the Government made it very clear that the revised seniority and notional promotion will be given, but not the monetary benefits to the beneficiaries. The said Government Order issued was not under challenge and it became final.



Following the said Government Order, the impugned order in the present writ petitions has been issued and the petitioners were already granted notional promotion and the benefit of regularisation with effect from 01.07.1984 and they retired long back. Even at the time of filing of these writ petitions, the petitioners filed the same as retired employees.

12. The benefit of revision of seniority resulted in grant of notional promotion to the higher post. Thus the issue finalised before the Supreme Court was regarding the fixation of seniority and the notional promotion was granted consequent to the revision of seniority. Thus there was no occasion for the Courts to consider whether the employees are eligible for monetary benefits or not. The issue relating to seniority was pending before the Tribunal, High Court and the Supreme Court. It took several years to reach its finality and in the meanwhile, many employees are retired from service, including the present writ petitioners. However, the Supreme Court confirmed the final seniority list and based on the same, considering the seniority, the petitioners were granted notional promotion with retrospective effect and their services also were regularised.

13. In view of the fact that the notional promotion was granted consequent to the revision of seniority, the petitioners



WEB COPY



W.P.Nos.11280 to 11284 of 2017

had not served in the higher post, namely, the promotional post. When the petitioners admitted that they had not served in the promotional post, the Government has rightly restricted the monetary benefit and extended the benefit of notional promotion alone. The position was made clear by the respondents by stating that allowing the monetary benefits consequent to the revision in the cadre of Field Surveyor, to the petitioners, could open flood gate for large numbers of similar cases, involving huge exchequer to the Government. Hence the Government, in G.O.Ms.No.425, Revenue Department, dated 27.11.2012, taking into account the financial burden involved, restricted the benefit of revision of regularisation to seniority and service benefits only and not granted any monetary benefits.

14. The respondents have further reiterated that it is not just and fair on the part of the administration to allow monetary benefits to the petitioners, when they have not actually worked in the higher post in the time scale with effect from 01.07.1984.

15. The learned counsel for the petitioners raised a doubt with reference to the statement made in the counter-



WEB COPY



W.P.Nos.11280 to 11284 of 2017

affidavit that “the dates of regularisation, the basic categories will be revised notionally as per O.A.No.199 of 1990 and further promotions will be regulated but retrospective monetary benefits, pensionary benefits and other benefits will not be granted. The statement made in the counter-affidavit is with reference to the revision of seniority and the notional promotions granted to the wirt petitioners pursuant to the revision of seniority. However, the petitioners are eligible to receive all other benefits, as applicable, in accordance with the Pay Rules in force.

16. Considering the facts and circumstances, this Court is of the considered opinion that the petitioners were initially appointed as consolidated pay employees in the Survey Department and they were brought under the regular time scale of pay considering their length of services. The seniority was fixed in the post of Surveyor and the dispute arose. The matter went upto Supreme Court and the final seniority list published by the Government was confirmed. Based on the final seniority list, revision of seniority was given effect to and consequently few employees got notional promotion with retrospective effect and the petitioners were also granted the said benefit in the promotional post notionally. While passing the order, the Government made it very clear that they are not entitled for any monetary benefits and thus, there is no infirmity for



claiming the monetary benefits as it will result in huge financial loss. That apart, the Government took as a stand that the petitioners have not served in the higher post and therefore, they are not entitled to claim the salary attached to the post which they have not served at all. This being the reasonings given by the respondents, this Court do not find any infirmity in respect of the said reasonings. However, it is made clear in the Government Order that notional promotions would not attract the monetary benefits and the other benefits for which the petitioners are eligible in accordance with the rules will be extended.

17. Accordingly, the writ petitions stand dismissed. However, there shall be no order as to costs. “

3. However, it is made clear in the Government Order that notional promotions would not attract the monetary benefits and the other benefits for which the petitioners are eligible in accordance with the rules will be extended including pensionary benefits, if any.



W.P.Nos.11280 to 11284 of 2017

4. In view of the orders passed by this Court in the cases (cited *supra*),

the present Writ Petitions are also dismissed on the same line. No costs.

Consequently, connected miscellaneous petitions are closed.

10.11.2022

Index : Yes

Speaking order: Yes

kak

To

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

2.The Additional Director of Survey and
Settlement,
Survey House, Chepauk,
Chennai – 600 005.

3.The Assistant Director of Survey and
Land Records, Salem.



WEB COPY



W.P.Nos.11280 to 11284 of 2017

S.M.SUBRAMANIAM, J.

kak

W.P.Nos.11280 to 11284 of 2017

10.11.2022