



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.2648 of 2022

A.Sumathi ... Petitioner

-vs-

1.The District Collector,
Dindigul District.

2.The District Revenue Officer,
Dindigul District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in Na.Ka.No.02/2021/A1 dated 05.01.2022 on the file of the 1st respondent and quash the same as illegal and consequently direct the 1st respondent to promote the petitioner as Deputy Tahsildar with effect from 22.01.2021 ie. date on which her juniors were promoted as Deputy Tahsildar.

For Petitioner : Mr.S.Kumar
For Respondents : Mr.D.S.Nedunchezian,
Government Advocate

ORDER

The Memo, dated 05.01.2022, rejecting the claim of the writ petitioner for promotion to the post of Deputy Tahsildar, is under challenge in the present writ petition. A consequential direction is sought for to promote the petitioner as Deputy Tahsildar with effect from 22.01.2021.

2.Learned counsel appearing for the petitioner made a submission that as on 22.01.2021, the petitioner was fully qualified for promotion to the post of Deputy Tahsildar. However, by indicating the interim order passed in a Writ Appeal, which occurred subsequently, the claim of the petitioner for promotion was denied. Thus, the petitioner is constrained to move the present writ petition.

3.Perusal of the order impugned dated 05.01.2022 reveals that one Mr.S.Premkumar and 12 others filed W.P.(MD) No.5003 of 2018 for the following relief:-

<https://hcservices.ecourts.gov.in/hcservices/>



"Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, declaring Section 1(2) of Tamil Nadu Government Servant (Condition of Service) Act, 2016 as ultra vires and unconstitutional and consequently call for the records relating to the proceedings of the impugned order in Na.Ka.No.37470/2017/A2 dated 27.11.17 on the file of the 3rd respondent and quash the same and further directing the 3rd respondent to fix the seniority of Revenue Assistant in Dindigul District based on the rank list submitted by the 4th in the recruitment of CSSE-1-201 as per Section 35A of Tamilnadu State and Subordinate Service Rules."

4.Yet another writ petition in W.P.(MD) No.1697 of 2019 was filed by one Mr.P.Murugesan and a common order in both the writ petitions was passed on 10.02.2022, which reads as under:-

"7.In the light of the above observations and in consideration of the prayer sought for in W.P.(MD) No.1697 of 2019, there shall be a direction to the first respondent to dispose of the petitioners' appeal dated 23.01.2018 on its own merits and pass appropriate orders in accordance with law, after giving due opportunity of hearing to the petitioners as well as the private respondents herein. Such an exercise shall be completed, at least within a period of three months from the date of receipt of a copy of this order.

8.In view of the above direction to consider the appeal, the prayer in W.P.(MD) No.5003 of 2018 does not require consideration."

5.The said common order passed in W.P.(MD) Nos.5003 of 2018 and 1697 of 2019 was taken by way of an appeal in W.A.(MD) No.413 of 2021 and the Hon'ble Division Bench of this Court, by order dated 24.02.2021, passed an interim order in C.M.P.(MD) No.1541 of 2021 in W.A.(MD) No.413 of 2021 as follows:-

"The learned counsel appearing for the petitioners/appellants submitted that the learned Single Judge, while disposing of the writ petition, has not taken note of the Judgment of a Division Bench of this Court in K.Raja and others vs. The Additional Chief Secretary & Others, which has been confirmed by the Hon'ble Apex Court in S.L.P. (C)Nos.2861 to 2876 of 2020, on 06.07.2020. Therefore, the order of the



learned Single Judge is contrary to the Judgment of the Hon'ble Apex Court. 2. Considering the above, there shall be an order of interim injunction."

6. In view of the interim order granted by the Hon'ble Division Bench of this Court in the writ appeal, the authorities have not considered the case of the writ petitioner for promotion to the post of Deputy Tahsildar. Under these circumstances, entertaining a fresh writ petition is not desirable. Thus, the petitioner has to file appropriate petition for all necessary reliefs in the writ appeal pending in which the petitioner is also a party admittedly. When the petitioner herself is a party in the writ appeal, no separate writ petition needs to be entertained in respect of the relief which all are interconnected. Thus, the petitioner is at liberty to move appropriate petition in the manner known to law.

7. With the above liberty, this Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

abr

TO:

1. The District Collector,
Dindigul District.

2. The District Revenue Officer,
Dindigul District.

+1 CC to M/s.S.KUMAR, Advocate (SR-5552[F] dated 11/02/2022)

+1 CC to M/s.SPL.GP (SR-5705[F] dated 11/02/2022)

W.P.(MD) No.2648 of 2022

10.02.2022

SE (CO)

GC (21.02.2022) 3P 5C