



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.23341 of 2019

and

W.M.P.(MD) No.20007 of 2019

WEB COPY

S.Sahul Hameed

... Petitioner

-vs-

- 1.The State of Tamil Nadu,
Rep., by its Principal Secretary to Government,
Revenue Department, Secretariat,
Fort St. George, Chennai-9.
 - 2.The Director of Land Survey & Settlement,
O/o.The Director of Survey & Settlement,
Chepauk, Chennai-600 005.
 - 3.The Assistant Director of Land Survey & Settlement,
O/o.The Assistant Director of Land Survey & Settlement,
Pudukkottai District.
- ... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to regularize the service of the petitioner in the cadre of Surveyor with effect from 17.04.1983 with all consequential monetary benefits within the period that may be stipulated by the Court.

For Petitioner	:	Mr.M.Ajmal Khan, Senior Counsel For M/s.Ajmal Associates
For Respondents	:	Mr.M.Ramesh, Government Advocate

O R D E R

The relief sought for in the present writ petition is to direct the respondents to regularise the services of the petitioner in the cadre of Surveyor with effect from 17.04.1983 with all consequential monetary benefits within a stipulated period.

2.The learned Senior Counsel appearing on behalf of the writ petitioner, narrating the facts, states that the petitioner was initially appointed as Surveyor/Draughtsman on consolidated pay under UDR Scheme and joined on 17.04.1983. Due to illness, the petitioner availed leave from 01.03.1992 for a period of two months. When the petitioner proposed to join duty on completion of two months leave period, the petitioner was not allowed to join duty and one month notice dated 29.04.1993 was issued for the termination of



the petitioner. Meanwhile, the Government issued G.O.Ms.No.248, Revenue Department, dated 23.03.1993 in and by which, the employees working as Surveyor/Draughtsman were directed to be absorbed. In consequence thereof, the Government of Tamil Nadu, vide letter dated 27.09.1995 absorbed the candidates recruited under the UDR Scheme on consolidated pay in the vacancies of other Departments. The said list contains the name of the petitioner in Sl.No.238. The Government issued G.O.Ms.No.50, P & AR Department, dated 14.02.1995 posting the petitioner as Junior Assistant in the HR & CE Department. Since the petitioner is a non-Hindu, he was not permitted to join duty and his name was returned. Thereafter, the petitioner was terminated by the 3rd respondent in proceedings dated 26.06.1996 with effect from 12.06.1993. The appeal filed by the petitioner was rejected by the Government in order dated 07.11.1997. Subsequently, the writ petitioner filed O.A.No.8559 of 1998 and the Tamil Nadu Administrative Tribunal, vide order dated 27.03.2002 dismissed the original application with a direction to pay arrears of consolidated pay. However, the petitioner filed a review application against the order passed in the original application. The review application filed in R.A.No.26 of 2002 was decided in favour of the petitioner by the Tamil Nadu Administrative Tribunal by order dated 10.07.2002. The respondent-Department filed W.P.No.29963 of 2003 and this Court dismissed the writ petition filed by the Department by confirming the order dated 10.07.2002 passed by the Tamil Nadu Administrative Tribunal in R.A.No.26 of 2002. Thereafter, the first respondent vide G.O.2D No.410, Revenue Department, dated 19.10.2005 has appointed the petitioner as Surveyor-cum-Draughtsman in the Land Survey and Settlement Department and the petitioner joined on 08.11.2005 as Surveyor-cum-Draughtsman in the office of the Assistant Director of Land Survey and Settlement, Pudukkottai.

3.The petitioner was promoted as Firka Surveyor and further promoted as Taluk Deputy Surveyor and he reached the age of superannuation and allowed to retire from service on 31.07.2019. The above facts as narrated by the learned Senior Counsel are not disputed by the respondents.

4.The learned Senior Counsel for the petitioner is of an opinion that the petitioner was continuously denied his right of regular appointment. He was erroneously posted in the HR & CE Department and subsequently, his name was returned as he is a non-Hindu. However, the services were terminated at no fault of the petitioner and thereafter, he approached the Tribunal and at later point of time, he was regularly appointed in the year 2005. Therefore, the benefits granted to the other similarly placed employees from the year 1995 must be extended to the writ petitioner. The learned Senior Counsel made a submission that presuming if the benefits are not granted from 1983, it is to be granted from the year 1995.



5.The learned Government Advocate appearing on behalf of the respondents objected the contention by stating that the Government passed G.O.Ms.No.248, Revenue Department, dated 23.03.1993 providing for absorption of nearly 3,000 persons employed on consolidated pay in the Department of Survey. However, mistakenly the petitioner was allotted to HR & CE Department and his name was returned. Subsequently, he filed Original Application before the Tribunal and he was regularly appointed only from the year 2005. Therefore, the petitioner is not entitled to claim retrospective benefit.

6.The service benefits are to be claimed by the employees within a reasonable period of time. No doubt, there was a mistake occurred in the case of the writ petitioner by erroneously allotting his name in the HR & CE Department, however, the petitioner was terminated from service subsequently, as his initial appointment was not in accordance with the Recruitment Rules in force. Admittedly, the petitioner was appointed on consolidated pay. Again his case was considered pursuant to the order passed in the review application, which was confirmed by the High Court. Therefore, his case was considered based on the orders of the Court in the year 2005. Even in such cases, the petitioner ought to have approached the authorities within a reasonable period of time. The persons, who are left over their rights, cannot wake up one fine morning and knock the doors of the Court seeking retrospective regularisation from the date of appointment of the year 1983. Even the typed set of papers filed on behalf of the petitioner in the writ petition reveals that the proceedings sent by the 1st respondent to the 3rd respondent dated 15.12.2008 is the last document filed in the typed set of papers. Thereafter, the writ petition was filed only in the year 2019 after a lapse of about 11 years from the last proceedings issued by the 1st respondent. The petitioner admittedly attained the age of superannuation and retired from service after getting two levels of promotion in the Survey Department. The date of retirement was 31.07.2019. Under these circumstances, the question arises whether the writ petition is entertainable after a lapse of so many years for the purpose of granting retrospective regularisation from the year 1983.

7.The very relief sought for in the present writ petition is to direct the respondents to regularise the services of the writ petitioner in the cadre of Surveyor with effect from 17.04.1983. As far as the initial appointment is concerned, the petitioner was terminated and he was provided with a fresh appointment pursuant to the orders of the Court in the year 2005. If at all the petitioner was aggrieved during the relevant point of time, he would have approached the Court of law soon after the appointment is made with effect from the year 2005. However, the petitioner has not taken any steps to challenge the order of regularisation passed in the year 2005. Contrarily, he filed the present writ petition in the



year 2019 seeking retrospective regularisation with effect from 1983. Even the submission made by the learned Senior Counsel for the petitioner that the relief may be restricted from the year 1983 is to be treated as belated for all purposes. This being the factum, now after a lapse of many years, the relief as such sought for cannot be granted, as it involves financial implications causing loss to the State Exchequer. Even in case where similarly placed persons were granted benefit, the other similarly placed persons are instructed to approach the court of law within a reasonable period of time. The petitioner was regularised in the year 2005, he ought to have agitated the matter during the relevant point of time, which he had failed to do so. This being the factum, this Court is of the opinion that the petitioner is not entitled for the relief and accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (LA&MC)

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Sub Assistant Registrar(CS)

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To

- 1.The Principal Secretary to Government,
The State of Tamil Nadu,
Revenue Department, Secretariat,
Fort St. George, Chennai-9.
- 2.The Director of Land Survey & Settlement,
O/o.The Director of Survey & Settlement,
Chepauk, Chennai-600 005.
- 3.The Assistant Director of Land Survey & Settlement,
O/o.The Assistant Director of Land Survey & Settlement,
Pudukkottai District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-6376[F] dated 16/02/2022)

+1 CC to M/s.SPL GP (SR-6466[F] dated 16/02/2022)

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