



W.P.No.20627 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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S.Gopalakrishnan

...Petitioner

-Vs-

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai – 600 009.

2. The Principal Secretary/Commissioner
of Revenue Administration,
Chepauk,
Chennai – 600 005.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to direct the first Respondent to amend the Tamil Nadu Revenue Subordinate Service Rules in terms of the letter dated 02-09-2010 Government, Revenue Department written by the Secretary to the Government Pleader in Ref No.Lr.No.41063/Ser.3(2)/2009-4 read with the letter dated 19.08.2011 addressed to the Additional addressed by the Principal Secretary/Commissioner of Revenue Administration to the Principal Secretary to Government, Revenue Department in Ref. No.D.O.Letter No.Ser.3 (4) 99429/2009 and



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thereafter issue common guidelines to the Collectors for preparing the panel for appointment of Deputy Tahsildars in the State of Tamil Nadu.

For Petitioner : Mrs.Nalini Chidambaram
Senior Counsel
For Ms.C.Uma

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

ORDER

This writ petition has been filed for direction to direct the first respondent to amend the Tamil Nadu Revenue Subordinate Service Rules in terms of the letter dated 02.09.2010 written by him.

2. The petitioner was appointed to the post of Junior Assistant in the revenue department in the year 1990. Further, the educational qualification for the post of Junior Assistant is SSLC. But some of the Junior Assistants acquired graduate degree during the course of their employment. The next promotional post for the Junior Assistant is Assistant. The post of Junior Assistant in the revenue department are governed by the Tamil Nadu Ministerial Service Rules. Under the said rules, the post of Assistant is filled from two sources viz., from promotion from the feeder category of Junior Assistants and by direct



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recruitment. The minimum education qualification for being directly recruited as Assistant is a graduate degree. The next promotional post for Assistant is Deputy Tahsildar. The post of Deputy Tahsildar is governed by the Tamil Nadu Revenue Subordinate Service Rules. It is filled by recruitment by transfer from the post of Assistants. The minimum qualifying service for being considered for the post of Deputy Tahsildar is eight years as Assistant. The petitioner was qualified to be promoted to the post of Assistant and his name was included in the year 1997 panel of Assistants.

3. While being so, directly recruited Assistants made representation to the government and the government proposed to give preferential treatment in the matter of appointment to the post of Deputy Tahsildar to directly recruited Assistants over the promotee Assistants by way of government order in G.O.Ms.No.884, Revenue Department dated 12.08.1992. The said government order was challenged before the Tamil Nadu Administrative Tribunal and the same was quashed. However, the said award was reversed by this Court in W.P.No.19387 of 1998 etc., batch cases and upheld the validity of G.O.Ms.No.884 dated 12.08.1992



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and the amendments made by G.O.Ms.No.133, dated 07.02.1995.

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4. Aggrieved by the same, the promotee Assistants preferred appeal before the Hon'ble Supreme Court of India and the Hon'ble Supreme Court of India partly allowed and set aside the order of this Court holding that the impugned rule so far as it places directly recruited Assistants above the promotees for promotion as Deputy Thasildar shall only apply to those promotees who are non graduates, but it is inapplicable to those promotees who are graduates. Further held that difference in educational qualification may not be sufficient to give preferential treatment to one class of candidates as against the other. Whether the graduate degree is sufficient basis for qualification for promotion vis-a-vis non graduates and whether such classification has rational relation to the nature of the duties of a Deputy Tahsildar and it is for the State government to decide and not by the Court.

5. Thereafter the Principal Secretary to Government, Revenue Department, in order to implement the order passed by the Hon'ble Supreme Court of India, has decided as follows :-



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(i) It is felt that there are no grounds for filing a Review Application against the orders of the Supreme Court of India. It is also not a fit case for filing any appeal before the Larger Bench. Therefore, it is decided to implement the orders of the Supreme Court of India in letter and spirit.

(ii) Since the list of Deputy Tahsildars have been drawn subject to outcome of the SLP and a few appeal petitions were also disposed of subject to the outcome of the SLP the orders of the Supreme Court have to be implemented with effect from 04.12.1978 as indicated in G.O.Ms.No.133, Revenue dated 07.02.1995.

(iii) The list of Deputy Tahsildars has to be redrawn year wise.

(iv) The names of retired and dead persons have also be considered while redrawing the list.

(v) Regarding the observations of the Supreme Court whether classification of promotee Assistants on the basis of degree has rational relation to the nature of duties of a Deputy Thasildar, it was decided that this may be examined separately.

(vi) It has been decided to instruct the P.S/C.R.A to implement the orders of the Supreme Court of India after obtaining orders in circular."

6. Even before the said instructions, some of the district



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Collectors started preparing panels for promotion to the post of Deputy Tahsildar. Aggrieved by the same, some of them filed writ petitions in W.P.Nos.26239 of 2009 etc batch, and this Court disposed some of the writ petitions by an order dated 28.02.2011, with direction to the official respondents to proceed with the promotional aspects based on the existing rules and regulations. Even while pending the writ petitions, the Principal Secretary to the Revenue Department addressed letter dated 19.08.2011 to the revenue department, in which it was stated as follows:-

"(2). In this office reference 2nd cited above three Amendments to Rule 7 (a) of the Tamil Nadu Revenue Subordinate Service Rules were suggested. Amendment -1 relates to District Revenue Units and Amendment - 2 relates to Board of Revenue. Amendment - 3 is a new rule which says that a minimum general education qualification for appointment to the post of Deputy Tahsildar is a degree obtained from a recognised University other than an Open University

(3). In this connection I would like to state that there are two mode of recruitments i.e. one by transfer and other by direct recruitment for the post of Assistant in Revenue Department. By transfer, the Junior Assistant may be a candidate selected through TNPSC in Group IV services as well as by promotion from the lower cadre



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viz. Record Clerk, Office Assistant for which the educational qualification prescribed is only SSLC (Old pattern) or 10th Std. (New pattern). As per the existing rule, if they possess the qualification prescribed for Deputy Tahsildar they are promoted as Deputy Tahsildars.

(4) At present, qualification of degree is not prescribed for the post of Deputy Tahsildar and for other promotional posts like Tahsildar, Deputy Collector and District Revenue Officer. There are many instances where a non-graduate officer has reached the level of District Revenue Officer/IAS. In such a situation, it may not be appropriate to prescribe graduation as an essential qualification only for the post of Deputy Tahsildar.

(5). I therefore request that the Amendment - 3 proposed in this office reference second cited is not necessary and the same may be treated as withdrawn. I request early orders"

Even though decisions have been taken to remove the discrimination between the non graduate promotee assistants and graduate promotee assistants, the amendments have not yet been notified. Hence the petitioner filed this present writ petition with the above said prayer

7. Heard the learned counsel appearing on either side and



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perused the material on record.

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8. On perusal of the counter affidavit filed by the second respondent revealed that the first respondent with a view to implement order dated 08.04.2009, passed by the Hon'ble Supreme Court of India, has proposed to amend the rules as described in Government letter dated 02.09.2010 addressed to the Additional Government Pleader, High Court of Madras to apprise the fact before this Court. However, the said proposal has not been finalized and orders have not been issued so far, for amending the service Rules.

9. Considering the above facts and circumstances, the first respondent is directed to amend the Tamil Nadu Revenue Subordinate Service Rules in terms of the letter dated 02.09.2010, addressed to the revenue department and issue common guidelines to all district Collectors for preparing the panel for appointment to the post of Deputy Tahsildars within a period of twelve weeks from the date of receipt of copy of this Order.



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10. With the above directions, the writ petition stands disposed

of. There shall be no order as to cost.

25.08.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

1. The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai – 600 009.

2. The Principal Secretary/Commissioner
of Revenue Administration,
Chepauk,
Chennai – 600 005.



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