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W.P.No.24941 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.24941 of 2016

P.Ramamurthy

... Petitioner

Vs.

1. The Principal Secretary cum
Revenue Administration Commissioner,
Ezhilgam, Chepauk,
Chennai – 600 005
2. The Joint Commissioner (R.A.)
Revenue Administration,
Disaster Management and Disaster Relief
Department,
Chepauk, Chennai – 600 005
3. The District Collector,
Krishnagiri District
Krishnagiri

... Respondents

Writ Petition is filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings in Na.Ka.Works.4(1)/14807/2012 dated 06.06.2016 on the file of the 2nd respondent herein, quash the same and consequently direct the respondent herein to include the name of the petitioner in the year 2000 Assistants Panel.



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For Petitioner : Mr.Govi Ganesan

For Respondents : Mr.T.M.Rajangam
Government advocate

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings in Na.Ka.Works.4(1)/14807/2012 dated 06.06.2016 on the file of the 2nd respondent herein, quash the same and consequently direct the respondent herein to include the name of the petitioner in the year 2000 Assistants Panel.

2. The brief facts of the case, as averred by the petitioner is as follows:

(i)The petitioner was worked as Senior Revenue Inspector in the office of the Tahsildar, Hosur and joined the service as Draughtsman in the Land measurement department of the then Dharmapuri District. The Government of Tamilnadu vide, G.O.248, Revenue, dated 20.03.1993 (after getting concurrence from TNPSC) allotted the draughtsman from the said department to the unified Dharmapuri District Revenue Division and pursuant to the proceedings by the 3rd respondent in Na.Ka.No.100548/95/A4 dated 10.11.1995, the petitioner was released



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from the said department and was directed to join the Palakodu Taluk Office, on 22.11.1995, as Junior Assistant and the petitioner's services were regularised from 24.05.2002, as per G.O.No.205, Revenue (Services 9-2) and underwent training at Bhavanisagar. Subsequently, the petitioner was placed under suspension on 05.02.2001 by the 3rd respondent in Na.Ka.No.35135/2000 and challenging the same, the W.P.No.48339 of 2006 was filed. This Court held the Writ Petition in favour of the petitioner, thereby the charges against the petitioner were set aside and in the year 2011, the petitioner was included in the panel in the post of assistant.

(ii) The junior of the petitioner, viz., K.Amudhan was included in the 2000 panel, whereas the petitioner was included in the 2011 panel, as against the same, the petitioner has sent a representation on 05.02.2012 to the 1st respondent through the 3rd respondent requesting the authorities to place the petitioner's name in the 2000 panel (Assistants) above the name of Mr.K.Amuthan. The said representation was not considered, therefore, the petitioner has sent another representation dated 25.03.2013 to the respondents through RPAD and the respondents neither considered nor rejected the prayer.

(iii) Therefore, the petitioner, earlier, filed a Writ of Mandamus in W.P.No.34471 of 2013 seeking a direction to the 1st respondent to consider



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the representation dated 25.03.2013 within a stipulated period. This Court by an order dated 20.12.2013 directed the 1st respondent to consider the said representation within a period of four weeks from the date of receipt of copy of the said order. The respondents served a communication dated 06.06.2016 in Na.Ka.Works.4(1)/14087/2012 whereby, the request of the petitioner was rejected. Challenging the same, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the respondent herein failed to note that the petitioner herein had cleared the departmental test way back in the year 1999 itself and the said Amuthan had also passed the departmental test during the relevant period. When the respondents added the name of Amuthan in the 2000 Assistants' panel, they ought to have included the name of the petitioner also in the said panel. The respondents are not justified in rejecting the request of the petitioner and committed the mistake on their own.

4. The learned counsel for the petitioner also submits that the petitioner had worked on daily wages without any break in services in Government Land Survey Records Department from 08.02.1984 to 20.12.1989 and subsequently, joined as Surveyor as consolidated pay at



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Dhenkanikottai Natham Land Survey Unit 2 on 21.12.1989 and worked till then till 20.11.1995 and on 25.11.1995 had joined as junior assistant in old age pension distributor section at Palacode Taluk Office and on 22.11.1995 the petitioner's service was regularised from the date of the date of joining. Therefore, the petitioner is legally entitled to be included in the 2000 Assistant Panel but due to the mistake committed by the Department his name was not included and therefore, the impugned proceedings is liable to be quashed. That apart, the respondents failed to take into consideration G.O.Ms.(2D) No.205 dated 06.09.2010 before passing the impugned proceedings, which clearly supports the case of the petitioner herein, however, without considering the same, the 2nd respondent has passed the impugned proceedings, thereby pleaded to set aside the said proceedings.

5. Per contra, the learned Government Advocate for the respondents has filed a detailed counter and submits that the petitioner was only appointed as Surveyor cum Draughtsman in updating scheme on consolidated pay basis the year 1983 in the Survey and Settlement Department in Dharmapuri district and after completion of the above said scheme, the Draughtsman post was abolished in the year 1985 and the



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petitioner was absorbed in revenue department and posted as Junior assistant in Taluk office, Dharmapuri district. Later, the service of the petitioner was regularised in the cadre of Junior Assistant and the petitioner also underwent Civil service training at Government Training Centre at Bhavani Sagar Village of Erode District. In the meantime, there was a family dispute in between the petitioner and his wife. The petitioner said to have married a second wife and lived with her. The 1st wife of the petitioner had filed a petition before the authorities stating that the petitioner has married a second wife and living with her by deserting the 1st wife and thereby violated the Government Servant Conduct Rules. Therefore, a charge memo was issued to the petitioner for bigamous marriage and the petitioner was suspended from service for violating the service rules.

6. The learned Government Advocate appearing for the respondents also submits that the petitioner had filed O.A.No.893 of 2001 and the same was transferred before this Court in W.P.No.48339 of 2006. Thereafter, upon considering the contentions, the said Petition was allowed on 22.10.2009 and charge memo was dropped. After the petitioner was declared to have completed his probation with effect from 07.12.1997, vide G.O.Ms.No.513, Revenue department service rules dated 06.09.20109, the



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petitioner was deputed to Survey and Settlement training from 24.12.2010 to 27.01.2011, thereafter, he was included in the panel list of assistant from the year 2011. The petitioner's contention that Amudhan was junior to him and placed in the panel in the year 2000 is erroneous. Further, the 1st respondent after careful examination of the reports, records, service register and comparative statement of the petitioner and that of Tr.Amudan, have rightly rejected the request of the petitioner to include his name in 2000 Assistant Panel, vide Lr.No.17855/Ser6(1)/14, dated 15.04.2016, as devoid of merits, therefore, the contentions have no force and are liable for rejection.

7. Heard the learned counsel on either side and perused the materials placed on record.

8. It is relevant to point out that the petitioner, who was appointed as Surveyor / Draughts man in the consolidated pay basis in the year 1983 in Survey and Settlement Department was an temporary post and it was abolished in the year 1985, however, the petitioner, after completion of the probation and regularisation only, his name can be considered.



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9. It is visible from the averments in the counter that the petitioner's name could not be included in the year 2000, as he was suspended and disciplinary proceedings were initiated against him for bigamous marriage. Therefore, the petitioner cannot plead that his name was not included erroneously, but the fact is, the petitioner has been suspended at that point of time and he cannot be included. The petitioner's pleading that the said Amuthan, was junior to him, cannot be equated, in view of the fact that the said Amuthan was regularised on 16.11.1994 itself.

10. It is important to note that the 1st respondent, after perusal of the detailed report sent by the 3rd respondent, connected records and service registers of the petitioner as well as K.Amuthan, clearly stated that the petition has been absorbed as Junior Assistant from the temporary post of consolidated Surveyor cum Draughts man and the service of the petitioner was regularised on 22.11.1995 F.N., further, the probation of the petitioner has been declared on 07.12.1997 A.N., whereas the services of K.Amudan in the cadre of typist has been regularised w.e.f. 16.11.1994 F.N., therefore, the name of Amuthan was included in the 2000 list. Therefore, it is clear that the request of the petitioner to include his name in the panel



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list of the Assistant for the year 2000, cannot be considered and the petition is liable to be dismissed.

In view of the above, the present Writ Petition is dismissed as devoid of merits. No costs.

14.03.2023

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking Order
ssd

To

1. The Principal Secretary cum
Revenue Administration Commissioner,
Ezhilgam, Chepauk,
Chennai – 600 005
2. The Joint Commissioner (R.A.)
Revenue Administration,
Disaster Management and Disaster Relief
Department,
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V.BHAVANI SUBBAROYAN, J.,

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