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W.P No.26575 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.26575 of 2021

S.Kutty

...

Petitioner

Vs.

1.The State of Tamil Nadu represented by
its Principal Secretary to Government,
Revenue & Disaster Management Department,
Fort St.George,
Chennai 600 009.

2.The Director of Survey & Settlement,
Survey House,
Chepauk,
Chennai 600 005.

3.The Additional Director of Land Survey and Land Records,
Survey House, Chepauk,
Chennai 600 005.

4.The Assistant Director of Land Survey & Land Records,
Collectorate Complex III Floor,
Trichy 1.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Certiorarified Mandamus, to call for the records in
pursuant the 1st impugned order issued by the 4th respondent in
proceedings Na.Ka.A1/4849/2014 dated 22.02.2016 & the 2nd impugned



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order issued by the 3rd respondent in proceedings Na.Ka.N3/25137/2016 dated 23.09.2016 & the 3rd impugned order issued by the 2nd respondent in proceedings Na.Ka.Gna1/2513/2019(Ni.A)dated 07.09.2021 and quash these orders and to consequently direct the respondents (i) to regularise the promotion of the petitioner in the post of Senior Draughtsman with effect from the date of her promotion to the said post on 20.11.1998 and accordingly restore her seniority in the post of Senior Draughtsman with effect from 20.11.1998 and (ii) to include her name in the panel for promotion to the post of Head Draughtsman, for the year 2015-2016, issued by the 3rd respondent in proceedings Na.Ka.Ka2/14475/15-2 (Ni.A) dated 15.09.2015 & grant her retrospective promotion to the post of head Draughtsman and Technical Manager on par with her immediate junior with all consequential service and monetary benefits.

For Petitioner : Mr. R.Prem Naryan

For Respondents : Mr.T.Arunkumar, Govt.Advocate

ORDER

This Writ Petition has been filed seeking issuance of Writ of Certiorarified Mandamus to call for the records in pursuant the 1st impugned order issued by the 4th respondent in proceedings Na.Ka.A1/4849/2014 dated 22.02.2016 & the 2nd impugned order issued by the 3rd respondent in proceedings Na.Ka.N3/25137/2016 dated



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23.09.2016 & the 3rd impugned order issued by the 2nd respondent in proceedings Na.Ka.Gna1/2513/2019(Ni.A)dated 07.09.2021 and quash these orders and to consequently direct the respondents (i) to regularise the promotion of the petitioner in the post of Senior Draughtsman with effect from the date of her promotion to the said post on 20.11.1998 and accordingly restore her seniority in the post of Senior Draughtsman with effect from 20.11.1998 and (ii) to include her name in the panel for promotion to the post of Head Draughtsman, for the year 2015-2016, issued by the 3rd respondent in proceedings Na.Ka.Ka2/14475/15-2 (Ni.A) dated 15.09.2015 & grant her retrospective promotion to the post of head Draughtsman and Technical Manager on par with her immediate junior with all consequential service and monetary benefits.

2.The petitioner has been appointed as Surveyor / Draughtsman on compassionate grounds. While the petitioner was working as a Land Surveyor, she was promoted to the post of Land Records Draughtsman vide the order of the Assistant Director of Land Survey and Land Records, Tiruchy, dated 30.09.1988. However the petitioner's regularization of service was erroneously done in the post of Field



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Surveyor instead of Draughtsman. However on the Writ Petition filed by the petitioner in W.P.No.4503 of 2007 a revised Government Order has been issued by canceling the earlier order of appointment and the petitioner's service was regularized in the post of Draughtsman with effect from 27.01.1989.

2.1. The petitioner was promoted to the post of Senior Draughtsman and it was regularized from 21.11.1998. One of the pre requisite for promotion to the post of Senior Draughtsman is that the employee should have completed one month Land Survey Training. However, the G.O.Ms.No.615, Revenue (SS.IV-I) Department, dated 14.09.2006 gives exemption from undergoing 28 days survey training for those who had already undergone 90 days survey training. Since the petitioner has completed the said training even prior to her appointment as per the orders of the Assistant Director of Land Survey and Land Records, Trichy-1, dated 30.09.1988, the petitioner is fully qualified to hold the post of Senior Draughtsman as on the date of her promotion to the said post i.e. 20.11.1998.

2.2. Since she was orally informed by the respondents that the



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Land Survey Training taken in the year 1988 cannot be taken into account for the promotion, she once again requested to issue orders to undergo Land Survey Training at Orathanadu. She was ordered to undergo the Land Survey Training at Orathanadu through the proceedings of the Assistant Director of Land Survey and Land Records, dated 05.02.2014 (for a period from 06.02.2014 to 05.03.2014 i.e. a period of 28 days). Thus, the petitioner had undergone training for a period from 06.02.2023 to 05.03.2014. Thereafter, she was granted with selection grade in the post of Senior Draughtsman with effect from 20.11.2008 vide the order of the Assistant Director of Land Survey and Land Records, Trichy, dated 28.05.2014.

2.3. The Additional Director of Land Survey and Land Records, Chennai issued order dated 15.09.2015 and published the panel of Senior Draughtsman for promotion to the post Head Draughtsman for the year 2015-16. But the petitioner's name was not included in the panel though her juniors names were included in the said panel. Despite she had given representation no order has been passed and hence, she filed a writ petition in W.P.No.4061 of 2016 and on which a direction has been



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given to consider the representation of the petitioner. However, an impugned order has been passed on 22.02.2016 in Na.Ka.A1/4849/2014 by cancelling her inclusion to the panel for promotion as Senior Draughtsman for the year 1998 and include her name in the panel for promotion for the post of Senior Draughtsman for the year 2014 in the SL.No.2014/3. Her representation dated 28.10.2015 was rejected by stating that the petitioner had undergone the Land Survey Training at Orathanadu only in the year 2014 and hence, her promotion to the post of Senior Draughtsman is not acceptable as per rules and hence, her request to regularise her services in the post of Senior Draughtsman with effect from 20.11.1998 and to include her name in the panel for promotion to the post of Head Draughtsman for the year 2015-16 was not accepted. Aggrieved over that the petitioner has filed this petition with the above said prayer.

3. Heard the submissions made by either side learned counsel and perused the materials available on record.

4.Mr. N.Karpagalakshmi, learned counsel for the petitioner



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submitted that the petitioner is entitled to get the benefit of G.O.Ms.615, Revenue (SS.IV-I) Department, dated 14.06.2006 and hence, the petitioner is exempted to under go training for 28 days. It is submitted that the petitioner had already undergone 90 days of integrated survey training even before her appointment and hence the petitioner is entitled to get the benefit of G.O.Ms.No.615, Revenue (SS.IV-I) Department, dated 14.09.2006.

4.1. Even due to any extraneous reasons the petitioner has to undergo 28 days of training, the petitioner can undergo training only when an order is given by the respondents. Since the delay can not be on the part of the petitioner, she cannot be aggrieved due to the delay on the part of the respondents.

4.2. In support of his contention, the learned counsel for the petitioner cited the judgement of the Hon'ble Division Bench of this Court in **W.A.Nos.173 & 174 of 2019 dated 22.01.2019**, wherein it is held that undergoing training is only a procedure in nature and hence, they ought not be reverted back. In the said judgement the earlier order of the Hon'ble Single Judge made in **W.P.No.19206 of 2015 dated**



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16.04.2018 was relied.

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5. Mr.G.Nanmaran, learned Special Govt. Pleader appearing for the respondents submitted that the benefit of G.O.Ms.No.615, Revenue (SS.IV-I) Department, dated 14.09.2006 is applicable only for the Draughtsman who are on consolidated pay and it is not applicable to the petitioner's case. Since the petitioner has completed her training only in the year 2014 she has been rightly included in the panel for promotion to the post of Senior draughtsman for the year 2014. The petitioner who needed to knock the doors of the court each time when injustice caused to her, had once again filed this writ petition for seeking above mentioned prayer.

6. The G.O.Ms.No.615, Revenue (SS.IV-I) Department, dated 14.09.2006 has stated in crystal clear terms that the persons who are appointed in time scale pay post after 10.08.1993 for the post of Surveyor Draughtsman on consolidate pay after undergoing integrated survey training for 90 days are exempted from undergoing survey training for 28 days for the purpose of promotion as Senior Draughtsman.

7. The above G.O. is squarely applicable to the case of the



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petitioner who was ordered to undergo three months integrated survey training by virtue of the order of the Assistant Director of Land Survey & Land Records, Trichy, vide proceedings Na.Ka.A1/5835/88 dated 30.09.1988. After completion of the training she was appointed to the post of Surveyor Draughtsman by virtue of the order dated 24.01.1989. That would evidence that the petitioner was in time scale pay after 10.08.1993 and she had also undergone an integrated survey training for 90 days. The G.O. cannot be interpreted in the manner that it should be applicable only for those Draughtsman who are getting consolidated pay. The two conditions which should be applied for the post of surveyor / draughtsman to get the benefit of above G.O.Ms.No.615, Revenue (SS.IV-I) Department, dated 14.09.2006 that (i) it is applicable only after 10.08.1993 and (ii) the persons who availed the benefit ought to have been appointed in the post of Surveyor and Draughtsman and had undergone integrated surveyor training for 90 days .

8. The petitioner has been absorbed in the Government service after she had undergone the above said integrated survey training, irrespective of that she was given with consolidated pay. Once an employee has



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undergone the integrated survey training in survey syllabus he/ she need not undergo the short term training of 28 days. It is to cut down the government expenses on training by making it not mandate for those who had already taken. So, no pedantic interpretation can be given to G.O.Ms.No.615, Revenue (SS.IV-I) Department, dated 14.09.2006. Due to abundant caution the petitioner volunteered herself to go for 28 days training also. There is a delay in sending her to the training on the part of the department for which the petitioner cannot be blamed.

9. No doubt the petitioner at her part had to undergo the training once again. The petitioner who was exempted from undergoing 28 days training, has been ordered to undergo once again the very same training but for 28 days in the year 2014. Even for the sake of arguments if it is presumed that the petitioner needs to undergo the training of 28 days still the repeated orders also, the completion of training is only a procedure formality. The Hon'ble Supreme Court has held in the case of ***Pramod Kumar Vs. U.P. Secondary Education Services Commission and others***, [reported in (2008) 7 SCC 153].

10. In W.P.No.19206 of 2016 the above order of the Hon'ble



Supreme Court has been followed and it is held as under:

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“10. Finally the learned Additional Advocate General would rely upon the decision of the Hon'ble Supreme Court of India reported in (2008) 7 SCC 153 in the case of Pramod Kumar Vs. U.P. Secondary Education Services Commission and others, wherein it has been held that illegality cannot be cured and only irregularity can be cured. According to the learned Additional Advocate General it was an illegal promotion granted to the petitioner and therefore the same needed to be set right. Though the argument advanced by the learned Additional Advocate General appears to be valid at threshold, however if the same is examined in the facts and circumstances of the present case, it could be seen that the promotion of the petitioner was effected as early as 1984 and the only fact against the promotion of the petitioner was that the petitioner did not successfully undergo the Survey Training for 28 days. Such training is always a part of the Government service and the experience gained all these years by the Government servant is more than the knowledge acquired through the so called training that too for a short duration of 28 days. Completion of training in the circumstances of the case can only be construed as procedural formality. Therefore, this Court finds that the reliance placed by the learned Additional Advocate General on the judgment of the Hon'ble Supreme Court cannot be applied to the facts of the present case. [emphasis supplied]”

11. The reference about the above judgement has been made in the subsequent judgement of the Hon'ble Division Bench of this Court dated



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22.01.2019 made in W.A.Nos.173 & 174 of 2019. So in all possibilities the petitioner is eligible to be included in the promotion panel for the year 1998 and her promotion ought not to have been delayed till the year 2015-16.

In the result, this writ petition is **allowed** and the impugned orders issued by the 3rd respondent in proceedings Na.Ka.N3/25137/2016 dated 23.09.2016 & the 2nd respondent in proceedings Na.Ka.Gna1/2513/2019(Ni.A) dated 07.09.2021 respectively are quashed and the 2nd respondent is directed to regularise the promotion of the petitioner in the post of Senior Draughtsman with effect from the date of her promotion to the said post on 20.11.1998 at par with her immediate junior and refix her seniority accordingly and thus include her name in the panel for promotion to the post of Head Draughtsman, for the year 2015-2016 in view of the proceedings in proceedings Na.Ka.Ka2/14475/15-2 (Ni.A) dated 15.09.2015 and grant her promotional benefits in the post of head Draughtsman and Technical Manager on par with her immediate junior with all consequential service and monetary benefits.



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Index : Yes

Internet : Yes/No

jrs



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R.N.MANJULA, J.

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