



W.P.No.31548 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.31548 of 2019

R.Ananthakrishnan
Tahsildar
Thirupathur Taluk
Thirupathur
Vellore District.

... petitioner

Vs.

1. The Principal Secretary
Revenue & Disaster Management
and Mitigation Department
Tamil Nadu Government
Fort St.George
Chennai-600 009.
2. The Addl. Chief Secretary /
Commissioner of Revenue Administration
Revenue Administration and Disaster Management Department
Ezhilagam, Chennai-600 005.
3. The District Collector
Vellore District
Vellore.

... Respondents



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Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 05.10.2019 which was given for seeking to include the petitioner's name to the cadre of Deputy Tahsildar in the panel year 2012-2013 and consequently, in the cadre of Tahsildar in the panel year 2015-2016 by relaxing 3 days of shortage in completing 5 years training as per Annexure IX Rule 38(b)(II) of the Tamil Nadu Ministerial Service Rules so as to enable the petitioner to be promoted as Deputy Collector as align with other persons of his batch.

For Petitioner : Mr.R.Prabudoss
For Respondents : Mr.M.Muthusamy
Government Advocate

ORDER

This writ petition has been filed seeking for a mandamus to direct the respondents to consider the petitioner's representation dated 05.10.2019, wherein and whereby, he sought to include his name in the promotional panel list 2012-2013 for the post of Deputy Tahsildar and consequently, in the promotion panel list 2015-2016 for the post of the Tahsildar by relaxing 3 days shortage in completing 5 years training as per Annexure IX Rule 38(b) II of 'the Tamil Nadu Ministerial Service Rules' ['said Rules'].



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2. The case of the petitioner is as follows:

2.1. The petitioner was appointed as an Assistant in Vellore District Revenue Unit on 18.09.2008 as Direct Recruitment Assistant through TNPSC Group-II Examination. The petitioner is working as Tahsildar at Thirupathur Taluk, Vellore District. The persons, who are appointed as Direct Recruitment Assistant in the District Revenue Unit are eligible for promotion to the post of Deputy Tahsildar only on completion of the following trainings as per Annexure IX Rule 38(b)(ii) of said Rules which read as follows:

- 1. One week training under Revenue Inspector;*
- 2. One week training in Revenue Divisional Office;*
- 3. Bhawani Sagar Basic Training;*
- 4. Two weeks training in District Collector's office;*
- 5. One year training in Taluk Office;*
- 6. Orthanadu Land Survey Training along with passing in Departmental examinations;*
- 7. Two years training as Revenue Inspector;*
- 8. 18 months training in District Revenue Unit*



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including District Collector's office.'

2.2. The petitioner has been selected as Assistant through direct recruitment vide letter dated 23.07.2008 and asked to submit his physical fitness certificate within one week and accordingly, the petitioner submitted his physical fitness certificate on 27.08.2008. As per proceedings dated 09.09.2008 of the District Collector, Vellore District, the petitioner was informed to join the duty specifically on 18.09.2008 at Forenoon. Hence, the petitioner has joined the duty on 18.09.2008 Forenoon. It is pertinent to mention that the crucial date for the promotion of Deputy Tahsildar is on 15th day of September of every successive years. As per Annexure IX Rule 38(b)(ii) of said Rules, those who have joined as Assistants on direct recruitment, on completion of five years of service, are eligible for promotion to the post of Deputy Tahsildar. Since specific date was fixed for the petitioner to join the duty on 18.09.2008, he was unable to join the duty prior to the crucial date i.e., 15.09.2008. To be noted, the appointment order was issued on 09.09.2008 informing the petitioner to join the duty on



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18.09.2008 Forenoon. Generally, the appointment orders were issued informing the candidates to join duty within certain days from the date of receipt of the appointment order. The fourth respondent had issued appointment orders for Vellore District Unit alone specifying a particular date i.e., 18.09.2008, that too, after the crucial date for promotion i.e., 15.09.2008 with a *mala fide* intention. The proceedings passed with regard to the appointment of Assistants by the District Collector of Thiruvannamalai issued on 04.08.2008 reads as follows:

'direct recruitment assistants should join duty within one week time from the date of receipt of the order'.

2.3. It is pertinent to state that the above proceedings are given to the persons, who were selected for the post of Assistants in the year 2008 by the TNPSC in other Districts. Consequently, they have been promoted as Deputy Tahsildars even in the year 2012-2013 whereas, the petitioner was promoted as Deputy Tahsildar only in the year 2013-2014 due to 3 days shortage in completing five years training. If the 4th respondent has not



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given specific date for joining the duty for the petitioner, the petitioner would have joined the duty earlier than the crucial date and he would have been promoted as Deputy Tahsildar in the year 2012-2013 itself instead of 2013-2014. Hence, the petitioner gave a representation to the respondents on 10.12.2014 seeking for relaxation of three days shortage in completing five years training period. Several remainders were also made but the same has not been considered. Hence, the petitioner approached this Court by filing the present writ petition.

3. The learned Government Advocate for the respondents submits as follows:

3.1. The petitioner was selected as Assistant through direct recruitment and he was allotted Vellore District Revenue Unit. As per the letter dated 22.08.2008 of the District Collector, the petitioner herein and 17 other candidates were directed to submit their Certificate of Physical Fitness obtained from the Medical Officer appointed by the Government within a period of one week from the date of receipt of the intimation. After the



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receipt of the Certificate of Physical Fitness, the District Collector, Vellore, vide proceedings dated 09.09.2008 has appointed the petitioner and 15 other candidates as "Revenue Assistants" in Vellore District and deputed four weeks training as per the schedule mentioned in the said order with effect from 18.09.2008 to 15.10.2008. The petitioner had reported for duty on 18.09.2008 at Taluk Office, Tiruppathur Taluk of Vellore District.

3.2. It is not disputed that as per Annexure IX Rule 38(b)(ii) of said Rules, those who have joined as Assistants on direct recruitment, on completion of five years of service, are eligible for promotion to the post of Deputy Tahsildar but the promotion from the cadre of Assistant to Deputy Tahsildar is based strictly on seniority and merit, whereas the directly recruited Assistants have to complete 5 years training period. It is also not disputed that as per 6th proviso to Annexure III of Rule 7(a) of the Tamil Nadu Revenue Subordinate Service Rules contained in Annexure IX Rule 38(b)(ii) of the said Rules, on completion of 5 years period of training / service, directly recruited Assistants are eligible for inclusion of their names



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in the approved list of Deputy Tahsildar.

3.3. Some of the individuals, who are fully qualified for the promotional post of Deputy Tahsildar and completed more than 7 years of service in the post of Assistant in Vellore District Revenue Unit were empanelled for promotion through a Notification of temporary panel for the year 2013. Based on their seniority, the individuals are considered for the promotion but none of the directly recruited Assistants, including the petitioner herein have completed the requisite training of 5 years as on the crucial date i.e., 15.09.2013 and hence, their names were not included in the panel list of Deputy Tahsildar for the year 2013. Thereafter, the petitioner's name was considered for promotion to the post of Deputy Tahsildar in the year 2014 in Vellore Revenue Unit. In 2013 and 2014, the following foot note was specifically mentioned in the panel list of the Deputy Tahsildar.

'Any person who wishes to make any representation against non-inclusion of his / her name in the list should do so within a period of two months (60 days) from the date of receipt of this communication to the Additional Chief



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*Secretary / Commissioner of Revenue Administration,
Chennai through the Collector.'*

3.4. As per Rule 5(g) of the Tamil Nadu Revenue Subordinate Service Rules, the petitioner has every right to prefer an appeal before the Commissioner of Revenue Administration, who is the Appellate Authority within 60 days from the date of drawal of the panel for passing orders. However, after a lapse of 5 years from the date of promotion i.e., on 05.10.2019 only, the petitioner had sent a representation to the Commissioner of Revenue Administration for redressal of his grievance. However, the representation of the petitioner dated 05.10.2019 was considered by the 2nd respondent and the same was rejected as devoid of merits.

4. Heard both sides.



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5. On going through the averments in the case file as well as the counter affidavit, it is seen that in respect of the appointment of the petitioner and other candidates, TNPSC has sent selected candidates list to the District Collector, Vellore vide Notification dated 23.07.2008, after receipt of the same, as per instructions of TNPSC, the District Collector, Vellore vide letter dated 22.08.2008 has directed the petitioner and other candidates to submit their Certificate of Physical Fitness obtained from the Medical Officer appointed by the Government within a period of one week from the date of receipt of the intimation. After receipt of the same from the petitioner and other candidates, the District Collector, Vellore vide proceedings dated 09.09.2008 has appointed the petitioner and other candidates as Revenue Assistants in Vellore District and deputed for 4 weeks training as per the schedule mentioned in the said order with effect from 18.09.2008 to 15.10.2008. As instructed, the petitioner had reported for duty on 18.09.2008 at Taluk Office, Tiruppathur Taluk of Vellore District. Therefore, there is no administrative delay in the process of issuing



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appointment order to the petitioner and his batchmates. It is also stated that TNPSC has not fixed any crucial date for issuing appointment order / date for joining duty in respect of the petitioner herein as well as his batchmates all over the State. Not only the petitioner, all his batchmates were not considered for inclusion of their names in the list of Deputy Tahsildar for the year 2012-2013 since they did not acquire the requisite qualification as on the crucial date i.e., 15.09.2013. When the petitioner's name was considered for promotion to the post of Deputy Tahsildar in the year 2013-2014 in Vellore Revenue Unit, the petitioner did not raise any objections but after serving as Deputy Tahsildar for five years, he has sent a representation on 05.10.2019 for inclusion of his name in the panel list of the year 2012-2013, which is not acceptable. After joining the duty and serving for five years in the promotional post of Deputy Tahsildar, the petitioner cannot claim inclusion of his name in the promotional panel for the year 2012-2013, as a matter of right and therefore, this Court is of the view that the claim of the petitioner cannot be sustained. Hence, the writ petition is liable to be dismissed.



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