IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.07.2023

Coram:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.32781 of 2018

S.Rajendran .. Petitioner

Vs.

1. The Government of Tamil Nadu,
   Rep. by Secretary to Government,
   Revenue Department,
   Secretariat, Chennai-600 009.

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

3. The District Collector,
   Salem District, Salem.

4. The Revenue Divisional Officer,
   Mettur, Salem District.

5. The Principal Accountant General,
   (Accounts and Entitlements),
   Teynampet,
   Tamil Nadu, Chennai-600 018. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent relating to G.O.(1D).No.413, Revenue (sec.7(1)) Dept., dated

27.08.2015, to quash the same to the limited extent of the date of completion of probation period of the petitioner, denial of monetary benefits and issue consequential directions to the respondents to declare that the petitioner had completed the period of probation on 18.08.2000 AN, (instead of on 29.01.2004) and to grant all consequential benefits of grant of annual increments, re-fixation of pay, selection grade scale of pay and all other consequential benefits including revised retirement and pensionary benefits thereof with interest on all delayed payments till the date of disbursement.

For petitioner : Mr.M.Ravi
For respondents: Mr.R.Neethi Perumal, Govt. Advocate for RR-1 to 4
Mr.V.Murali, CGSC for R-5

ORDER

The Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent relating to G.O.(1D).No.413, Revenue (sec.7(1)) Department, dated 27.08.2015, to quash the same to the limited extent of the date of completion of probation period of the petitioner, denial of monetary benefits and issue consequential directions to the respondents to declare that the petitioner had completed the period of probation on 18.08.2000 AN, (instead of on 29.01.2004) and to grant all consequential benefits of grant of annual increments, re-fixation of pay, selection grade scale of pay and all other consequential benefits including revised retirement and pensionary benefits thereof with interest on all delayed payments till the date of disbursement.

2. The petitioner had joined as Village Administrative Officer (VAO) and after abolition of the post on 14.11.1980, he was retrenched from service. Thereafter, he was again appointed as VAO and he joined on 19.08.1998. He retired from service on 28.02.2013 on attaining the age of superannuation.

3. One of the conditions for regularisation of service as VAO is that the candidate should pass the Departmental Examination within two years. The respondents did not conduct the examination till 2003. They had reasons for not conducting it.

4. The first opportunity for appearance in the Departmental Examination came about on 30.09.2003. The petitioner had appeared for that examination. However, he was unfortunately not successful. He again wrote the examination on 29.01.2004. He was successful. Taking that as a cut-off date, his service was regularised from 18.08.2000.

5. The petitioner claims parity with another VAO S.Rajendran whose

service was regularised by order dated 22.10.2012. But one crucial factor pointed out on behalf of the respondents is that the said Rajendran has passed the Departmental Examination conducted on 30.09.2003. This fact is pointed out on behalf of the respondents as the distinguishing factor between the petitioner and the said Rajendran. Once the said Rajendran passed the examination on 30.09.2003 since that was the first examination which was conducted since he joined the service, it would be taken as if he had passed the examination within two years period or the first time, and that the period of two years is extended till the date when the Examination was first conducted, namely on 30.09.2003.

6. Unfortunately, the petitioner stands on a different footing. He failed in that examination and passed only in the subsequent examination and therefore, he cannot be treated on parity with the said S.Rajendran. Otherwise, it would amount to equalising the person who had failed in the examination in the first attempt and passed it only subsequently with a person who had passed the examination in the first attempt. The petitioner cannot claim that equality. This is the only ground that the petitioner meant on equal terms and seeking re-examination of the order granting regularisation from the year 2004 instead of 2000.

7. For the above reasons, the Writ Petition fails and the same is dismissed. The petitioner has not raised any complaint about non-payment of any of the

benefits payable to him on retirement. Hence, no further orders are required. There shall be no order as to costs.

04.07.2023

Index: Yes/no
Speaking Order: Yes/no
Neutral Citation: Yes/no
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To

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C.V.KARTHIKEYAN, J

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