



W.P.No.34538 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.34538 of 2018

M.Karthikeyan

... Petitioner

Vs.

The Secretary to Government,
Revenue Department,
Secretariat,
Chennai - 600 009.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to consider and pass orders on the representation dated 22.11.2018 within a stipulated time.

For Petitioner : Mr.S.Prabakar

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



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ORDER

This Writ Petition has been filed seeking for a direction to the respondent to consider and pass orders on the representation dated 22.11.2018 within a stipulated time.

2.It is the case of the petitioner that the petitioner was recruited as Typist through Tamil Nadu Public Service Commission in the Revenue Department in 1983. Thereafter, he was promoted as Assistant during 1990, then he was promoted as Deputy Tahsildar during 2000 and further promoted as Tahsildar in 2008. Thereafter, the petitioner attained the age of superannuation on 31.08.2012.

3.The grievance of the petitioner is that the Tamil Nadu Administrative Tribunal in O.A.No.9044 of 1997 batches, passed order



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dated 22.10.2002 struck down the instructions issued by the Government Letter No.11456/BCC/94-59, dated 23.02.1999 for providing rule of reservation while making appointments in all such posts filled up "Recruitment by transfer". Against the said order of the Tribunal, W.P.No.11296 to 11298 and 28787 of 2004 has been filed before this Court and this Court held that the recruitment by transfer in all these cases in the same Department is needed to be the "promotion" and for which the rules of reservation does not apply upheld order of the Tribunal and the Writ Petitions are dismissed. Further, the Review Applications are also dismissed as devoid of merits in R.A.No.64 to 67 of 2005 dated 28.02.2005. Thereafter, Special Leave Petition (C) No.5588 of 2006 filed dated 03.03.2006 by the Government of Tamil Nadu in the Backward classes, Most Backward Classes and Minority Welfare Department, Chennai -9. As per Rules 2-A of the Special Rules for Tamil Nadu Civil Service Rules, rule of reservation is applicable to the post of Deputy Collectors while making appointment



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by the method of recruitment by transfer. When the said SLP is pending the temporary Deputy Collector list for the year 2010 and 2011 duly adhering to the rule of reservation only for the candidates who belong to Schedule Caste/Schedule Tribes, not belongs to Backward Classes and Most Backward Classes till date. The Deputy Collector list for the year 2010 has published dated 10.02.2011 and the petitioner is fully qualified for inclusion of the list of Deputy Collector for the year 2010. Further, the petitioner belongs to MBC candidate. But the name of the petitioner was included to Deputy Collector list for the year 2011 in Sl.No.131 under the Tamil Nadu Civil Service Rules. Hence, he was not promoted as Deputy Collector due to not reach the panel, the petitioner retired as Tahsildar on 31.08.2012.

4.The petitioner would submit that the panel of Deputy Collector list for the year 2010 and the panel of Deputy Collector list of the year 2011 shall be revised following rule of reservation belong to the



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petitioner as Most Backward Class, as per the instructions issued by the Government Letter No.11456/BCC/94-59 dated 23.02.1999. Therefore, the petitioner made a representation dated 13.09.2018 to the respondent and requested to revise the Deputy Collector list for the year 2011. The respondent has not considered the orders of the Apex Court till date.

5.Further, the petitioner made a representation dated 25.09.2018 to the respondent to revise the Deputy Collector list for the year 2010 and requested that the name of the petitioner has to be included in the appropriate place in the panel. The respondent will not comply with the order of this Court in W.A.No.1932 of 2018, batches, dated 06.09.2018 and also the orders of the Apex Court till date. The petitioner again made a representation to the respondent dated 22.11.2018 to include his name above his junior name Mr.S.Selvaarasu in the list of Deputy Collector for the year 2010 and 2011 and also to be considered for grant of notion promotion with notional pay and



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pensionary benefits from the date on which immediate junior was promoted as per G.O.Ms.No.203, dated 30.10.2000. The respondent has not complied with the orders of the Apex Court.

6.The learned counsel appearing for the petitioner would submit that the Tribunal in O.A.No.9044 of 1997 batches, passed orders dated 22.10.2002, struck down the instructions issued by the Government Letter No.11456/BCC/94-59, dated 23.02.1999 for providing rule of reservation, while making appointments in all such posts filled up "Recruitment by transfer". Thereafter, Special Leave Petition (C) No.5588 of 2006 has been filed. As per Rules 2-A of the Special Rules for Tamil Nadu Civil Service Rules, rule of reservation is applicable to the post of Deputy Collectors, while making appointment by the method of recruitment by transfer. The temporary Deputy Collector list for the year 2010 and 2011 duly adhering to the rule of reservation only for the candidates who belong to Schedule Caste/Schedule Tribes,



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not belongs to backward Classes and Most Backward Classes till date.

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The Deputy Collector list for the year 2010 has published dated 10.02.2011 and the petitioner is fully qualified for inclusion of the list of Deputy Collector for the year 2010. But the name of the petitioner was included to the list of Deputy Collector for the year 2011 in Sl.No.131 under the Tamil Nadu Civil Service Rules. Hence, he was not promoted as Deputy Collector and due to not reach the panel, the petitioner retired as Tahsildar on 31.08.2012.

7.The petitioner would submit that the panel of Deputy Collector for 2010 and 2011 shall be revised following rule of reservation belong to the petitioner as Most Backward Class, as per the instructions issued by the Government Letter No.11456/BCC/94-59 dated 23.02.1999. Therefore, the petitioner made several representations to the respondent and requested to revise the Deputy Collector list for the year 2011. The respondent has not considered the orders of this Court as well as the



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Apex Court till date. Therefore, the petitioner again made a representation to the respondent dated 22.11.2018 to include his name above his junior name Mr.S.Selvaarasu in the list of Deputy Collector for the year 2010 and 2011 and also to be considered for grant of notional promotion with notional pay and pensionary benefits from the date on which immediate junior was promoted as per G.O.Ms.No.203, dated 30.10.2000.

8.The learned Additional Government Advocate would submit whether the petitioner is entitled to inclusion of the list of Deputy Collector for the year 2010, has to be decided by the Authorities. Further, he would submit that this Court may pass appropriate orders on this issue.

9.A perusal of the records, it is seen that the Tribunal passed orders dated 22.10.2002 and struck down the instructions issued by the



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Government Letter dated 23.02.1999 for providing rule of reservation, while making appointments in all such posts filled up "Recruitment by transfer". Thereafter, Special Leave Petition has been filed before the Apex Court. As per Rules 2-A of the Special Rules for Tamil Nadu Civil Service Rules, rule of reservation is applicable to the post of Deputy Collectors, while making appointment by the method of recruitment by transfer. Therefore, the petitioner again made a representation to the respondent dated 22.11.2018 to include the name above his junior name Mr.S.Selvaarasu in the list of Deputy Collector for the year 2010 and 2011 and also to be considered for grant of notional promotion with notional pay and pensionary benefits from the date on which immediate junior was promoted as per G.O.Ms.No.203, dated 30.10.2000.

Accordingly, this Writ Petition is disposed of. The respondents are directed to consider the representation of the petitioner dated



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22.11.2018, if the petitioner is eligible to be included in the panel of Deputy Collector for the year 2010, within a period of four weeks from the date of receipt of a copy of this order. No costs.

03.11.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

mps

To

The Secretary to Government,
Revenue Department,
Secretariat,
Chennai - 600 009.



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V.BHAVANI SUBBAROYAN, J,

mps

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