BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 22.11.2023

ORDER PRONOUNCED ON : 28.11.2023

CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.5046 of 2021

VKS Velayutham ....Petitioner

Vs

1.The Additional Chief Secretary/Commissioner of Revenue Administration
Cheppakkam
Chennai – 5

2.The District Collector
Sivagangai

3.The Revenue Divisional Officer
Devakottai ....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned Government Orders in G.O(Id)No.362 dated 19.08.2019 and consequent G.O(Id).No.13 dated 22.01.2021 issued by the first respondent and quash the same as illegal and consequently direct the respondents to promote the petitioner as Deputy Tahsildar from 2013 and revise the salary, pension and other retirement benefits including backwages.

For Petitioner : Mr.RM.Arunswaminathan

For Respondents : Mr.R.Sureshkumar
Additional Government Pleader

ORDER

The present writ petition has been filed by a retired Revenue Assistant challenging the order passed by the First Respondent herein rejecting the request of the petitioner to include his name in the panel for the promotion to the year 2013-2014.

2.According to the writ petitioner, he had joined the revenue service as Village Administration Officer on 26.05.1984 and he was promoted as an assistant on 01.07.2009. He attained superannuation on 30.06.2014. The petitioner was eligible for being promoted as a Deputy Tahsildar in the year 2013 and the crucial date for inclusion of his name in the panel was 15.09.2013.

3.The petitioner had further contended that he met with an accident while he was on election duty and an FIR was registered in Crime No.12 of 2011 on 15.03.2011. In view of the said accident, he was constrained to avail medical leave between 03.01.2011 to 30.01.2011 and again from 16.03.2011 to 24.05.2011.The request of the petitioner for inclusion of his name was rejected by the second respondent on 12.07.2016 and he filed review petition before the first respondent on 18.09.2009. Since the review was not disposed of, the petitioner had approached this Court in W.P. (MD) 11891 of 2020 wherein a direction was issued for expeditious disposal of his review petition.

4.In compliance with the order of this court, the first respondent after considering the representation of the writ petitioner had passed orders on 19.08.2019 rejecting the review filed by the writ petitioner citing Rule – 7(III) of Revenue Subordinate Service Rules. A consequential order was passed by the authority the first respondent on 22.01.2021 rejecting the request. Challenging these two orders, the present writ petition has been filed.

5.According to the learned counsel appearing for the writ petition, as per Revenue Subordinate Service Rules, he has to complete two years of service as a Revenue Inspector and another two years of service as Revenue Assistant for becoming eligible to be promoted as Deputy Tahsildar. Admittedly, the petitioner had completed two years of service as a Revenue Inspector. However, while he was functioning as a Revenue Assistant, he met with an accident and he could not complete two years of service as a Revenue Assistant which was beyond his control.

6.According to the petitioner, there is only a deficit of 27 days for achieving two years of service as Revenue Assistant. Hence, the authorities are always entitled to condone the said period and include the name of the writ petitioner in the panel for Deputy Tahsildar considering the medical leave availed by the writ petitioner.

7.The learned Additional Government Pleader appearing for the respondents had filed a counter contending that the crucial date for inclusion of name of the petitioner in the panel for Deputy Tahsildar for the year 2013 is 15.09.2013. The petitioner has not completed mandatory period of two years in the assistant cadre and there was a shortage of one month and 24 days. Therefore, his name was not included in the panel.

8.The learned Additional Government Pleader relied upon Annexure-III of Tamil Nadu Revenue Subordinate Service Rules and contended that only as per the said service rules, the request of the petitioner was rejected. Hence, he prayed for dismissal of writ petition.

9.I have considered the submissions made on either side and perused the material records.

10.The petitioner is governed by Tamil Nadu Revenue Subordinate Service Rules. Annexure–III deals with qualification required for being promoted from Deputy Tahsildar to Tahsildar. Under Annexure – III(A)(ii) prescribes eligibility for an assistant to be promoted as a Deputy Tahsildar. Out of 8 years of service in the revenue subordinate service, two years shall be on duty as an assistant and another two years as Revenue Inspector. Therefore, it is clear that the petitioner should have rendered service as a Revenue Inspector for a period of two years and as Revenue Assistant for another period of two years for being eligible to be included in the panel for Deputy Tahsildar.

11.Admittedly, the petitioner has completed two years of service as Revenue Inspector. However, as a Revenue Assistant, the petitioner had not completed two years. Under the impugned orders, it has been pointed out that the petitioner has served as a Revenue Assistant only for a period of 1 year, 10 months and 24 days and there was a shortage of 1 month and 24 days for completing two years of service.

12.As per records, the petitioner was promoted as an Assistant on 01.07.2009. On the crucial date, namely 15.09.2013, the petitioner has not completed two years of his service in the cadre of Revenue Assistant. Therefore, his name was not included in the panel for the year 2013. He had retired on 30.06.2014. Had he been in service on 15.09.2014, his name would have been included in the panel for the year 2014. Since the petitioner had retired, there was no possibility for considering his name in the next panel also. The question of condoning the shortage in period and granting exemption in the qualifying service lies exclusively in the domain of the Government. Unless the petitioner has qualified himself as per the Service Rules, this Court is not in a position to consider the request in violation of the Service Rules.

13.In view of the above said facts, there are no merits in the writ petition. The writ petition stands dismissed. No costs.

28.11.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa

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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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