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W.P.(MD)No.12911 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.12911 of 2019
and
W.M.P.(MD)No.9624 of 2019

M.Karthigai Raja .

... Petitioner

VS.

1.The Additional Chief Secretary/
Commissioner of Revenue Administration,
Office of the Commissioner of Revenue
Administration,
Ezhilagam Campus, Chepauk,
Chennai-600 005.

2.The District Collector,
Office of the District Collector,
Theni District.

3.The District Revenue Officer,
Office of the District Revenue Officer,
Theni District.

... Respondents



W.P.(MD)No.12911 of 2019

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents herein to consider the name of the petitioner for promotion to the post of Deputy Tahsildar for the year 2017-2018 in the appropriate place based on his representation, dated 23.12.2017, within the time stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

This writ petition is filed for writ of Mandamus, to direct the respondents herein to consider the name of the petitioner for promotion to the post of Deputy Tahsildar for the year 2017-2018 in the appropriate place based on his representation, dated 23.12.2017, within the time stipulated by this Court.



W.P.(MD)No.12911 of 2019

WEB COPY

2. The brief facts of the case are that the petitioner after completing the degree course had participated in the Combined Subordinate Services Examination No.1 conducted by the T.N.P.S.C during the year 2009 and after successfully passing in the said examination, the petitioner was appointed as a Revenue Assistant on 29.02.2012. The petitioner joined the service on 05.03.2012. The petitioner was deputed for Basic Training to the Revenue Divisional Office, Uthamapalayam and Office of the District Collectorate, Theni, which is a four weeks Training Course. Thereafter, the petitioner was deputed for training to Taluk Office for a period of one year by the proceedings of the 2nd respondent in Na.Ka.No.A2/666/2012, dated 31.03.2012. In the meanwhile, the petitioner's probation period was declared as successful on 13.10.2015 and thereafter, the petitioner was posted as a Revenue Assistant at the Collector Office, Theni, from 11.06.2013 to 08.01.2015. Further, his services were regularized from



W.P.(MD)No.12911 of 2019

WEB COPY

08.06.2012. Thereafter, he was deputed for Basic Training at Bhavani Sagar from 09.01.2015 to 02.03.2015 and posted as Revenue Assistant at the Disaster Management Section, Collector Office, Theni, from 03.03.2015 till 05.05.2015.

3.The petitioner was transferred and posted as Revenue Assistant at the Taluk Office, Uthamapalayam, from 06.05.2015 to 19.05.2015 and thereafter, deputed for Survey Training at Orathanadu from 20.05.2015 to 23.06.2015. After completion of such training, he was posted as Special Revenue Inspector in the Taluk Office Theni from 24.06.2015 to 24.07.2015. Thereafter he was posted as Revenue Inspector in the office of the Special Tahsildar (Land Aquisition) NHAI Unit 1 from 24.07.2015 to 24.01.2016. Again, he was posted as a Firka Inspector in the Office of the Taluk Office, Periyakulam Taluk, from 25.01.2016 to 06.02.2018.



W.P.(MD)No.12911 of 2019

WEB COPY

Then, he was posted as a Senior Revenue Inspector, Office of Taluk Office, Periyakulam Taluk from 07.02.2018 to till date.

4. The contention of the petitioner is that the promotion panel to the post of Revenue Assistant for the year 2012 from the persons who were working as Junior Assistants in the Theni District under Tamilnadu Ministerial Service Rules has been published on 31.07.2012. One K.Jeyabharathi was placed at Serial No.4. As per seniority list, the petitioner's name was found at Serial No.27. Admittedly as per seniority list, K.Jeyabharathi and others who were promoted as Revenue Assistants from the post of Junior Assistant have joined only on 30.08.2012, whereas the petitioner joined as Revenue Assistant on 05.03.2012, i.e., much prior to the above said person. Thus, the petitioner is the senior most person eligible for promotion to the post of Deputy Tahsildar for the year 2017 from the post of Revenue Assistant. But he



W.P.(MD)No.12911 of 2019

WEB COPY

was not granted Deputy Tahsildar post in the year 2017 but his juniors were granted promotion.

5.Further, the contention of the petitioner is that the petitioner has worked as Revenue Inspector from 24.06.2015 to 24.07.2015 and the same should be taken into consideration for promotion to the post of Deputy Tahsildar in the year 2017. The 1st respondent issued a circular, dated 16.11.2010, stating that the persons who were working as Revenue Inspector on promotion or direct recruitment shall be sent for training periodically. If there is any default in sending the employee for training, the employee cannot be held responsible for the same. The respondents failed to follow the Circular and has denied promotion, but granted promotion to the petitioner's juniors, aggrieved over the same, the present writ petition is filed.



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W.P.(MD)No.12911 of 2019

6. The 2nd respondent has filed a counter affidavit denying the allegations of the petitioner. The crucial date for fixing the seniority is 15th September every year. On the crucial date in the year 2017 i.e. on 15.09.2017, the petitioner had not completed the service qualification and he had completed the service qualification on 06.02.2018 only. Therefore, the petitioner's name was not considered. Thus, the 2nd respondent prayed to dismiss the writ petition.

7. Heard Mr.G.Thalaimutharasu, learned Counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate appearing for the respondents and perused the records.

8. It is seen that the petitioner has completed Firka Inspector training on 06.02.2018. However, the contention of the petitioner is that he has completed a Special Tahsildar (Land Acquisition) training for more than 6 months but the prescribed training period is only for one



W.P.(MD)No.12911 of 2019

WEB COPY

month. If the said 4 months is taken, the petitioner would have completed the Firka Inspector training before the crucial date and the petitioner would have completed the said 2 years training. Because the respondents had made the petitioner to undergo training beyond one month, the petitioner was sent for next training belatedly, which had affected the petitioner next promotion. The respondents have denied promotion to the petitioner for the reason that the petitioner is lacking the Frika Inspector training, since he had not completed the training for 2 years but has completed only for one year seven months twenty days.

9. As rightly pointed out by the petitioner, if the respondents had sent the petitioner for training for Special Tahsildar only one month as prescribed in the rules, the petitioner would have completed Firka Inspector training. Exactly, four months training is lacking in the present case.



W.P.(MD)No.12911 of 2019

WEB COPY

10. Therefore, the petitioner is entitled to be considered. Moreover, the service qualification of an employee cannot be held against the petitioner, if there is any delay in sending the employee for training and it is a settled proposition and there are several judgements by this Court wherein it has been stated that delay in sending an employee for training especially for Bhavani Sagar training, Survey training and Junior Assistant training cannot be held against the employee. In the present case, respondents have sent the petitioner for Special Tahsildar training and he has undergone the said training for 6 months instead of one month. If the respondents had sent to the petitioner to Firka Inspector training after completing one month of Special Tahsildar training, the petitioner would have completed 2 years of Firka Inspector training. This is the fault of the respondents. Therefore, the same cannot be held against the petitioner. Hence, the petitioner is entitled to be considered for promotion on par with his juniors. Therefore, the petitioner is entitled to



WEB COPY



W.P.(MD)No.12911 of 2019

be considered for the post of Deputy Tahsildar and the respondents are directed to keep the petitioner in appropriate seniority and grant promotion on par with his juniors with all monetary benefits and other benefits. Moreover, the petitioner has also pointed out that there are certain vacancies available in the list published for the year 2017-2018. Therefore the respondents shall also consider the petitioner's case in the available vacancy and post the petitioner in the promoted post, so that he could get further promotion for the higher post. The said exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order.

11. With the above said observation, the writ petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No
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W.P.(MD)No.12911 of 2019

To

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W.P.(MD)No.12911 of 2019

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