BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 13.10.2023

ORDER PRONOUNCED ON : 19.10.2023

CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.14583 of 2022
and W.M.P(MD).Nos.10406 and 10407 of 2022

P.Thavas Pandeeswari ....Petitioner

Vs

1.The Secretary to Government
Revenue and Disaster Management Department
Secretariat, Fort St.George
Chennai 600 009

2.The Commissioner of Revenue Administration
Ezhilagam, Chepauk
Chennai 600 005

3.The District Collector
Virudhunagar District
Virudhunagar

4.The District Revenue Officer
Virudhunagar District
Collector's Complex
Virudhunagar 626 002

5.V.Balamurugan
Zonal Deputy Tahsildar
Taluk Office, Vembakottai

6.M.Dhanam
Zonal Deputy Tahsildar
Taluk Office, Srivilliputtur ....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 13.04.2022 made in ROC.No.A2/1354/2020-3 (revised Revenue Assistant Panel for the year 2012) on the file of the District Revenue Officer, Virudhunagar, 4th respondent herein in so far as the re-drawal of the panel for the post of Revenue Assistant for the year 2012 and quash the same consequently direct the respondents to include the name of the petitioner in the Revenue Assistant panel for the year 2012 above the name of respondents 5 and 6.

For Petitioner	: Mr.A.V.Arun
For R1 to R4	: Mr.J.Ashok Additional Government Pleader
For R5 & R6	: Mr.S.Visvalingam

ORDER

The writ petition has been filed challenging the Revenue Assistant Panel for the year 2012 published by the fourth respondent herein on 13.04.2022.

2.The writ petitioner was appointed as a Typist on 03.08.2009 in the Revenue Department after being selected through Tamil Nadu Public Service Commission. Her probation was declared on 02.08.2011. The petitioner had availed maternity leave from 10.11.2011 to 07.05.2012. After rejoining duty, she had undergone survey training at Orathanadu and she became eligible for being promoted as a Revenue Assistant.

3.According to the petitioner, when the panel for Revenue Assistant in the year 2012 was prepared, her name was not included, but the name of her Juniors were included. The petitioner's name was included in the panel for promotion for Revenue Assistant only in the year 2013. In view of various litigations pending before the Hon'ble Supreme Court and the High Court with regard to fixation of interse seniority between the directly recruited Assistants and promotee graduate assistants, she could not approach the authority in time seeking to include her name in the panel in the year 2012.

4.According to the petitioner, the panel was finally redrawn by the proceedings of the fourth respondent dated 14.04.2022 and the petitioner's name was not included. The petitioner assumes that her name has not included only because of the fact that she has not completed the survey training due to her maternity leave. Though she had passed departmental examinations before 2012, the maternity leave has been put against her and her name has not been included in the panel. However, she had completed the survey training between 16.05.2012 and 19.06.2012 after she rejoined from the maternity leave. Therefore, the present writ petition has been filed challenging the panel drawn by the fourth respondent on 13.04.2022 fixing interse seniority among the Revenue Assistants.

5.The learned counsel for the writ petitioner had relied upon the judgement of the learned Single Judge of this Court in W.P(MD).No.23155 of 2015 dated 12.08.2022 (M.P.Malathy and others Vs. The State represented by the Secretary to Government, Revenue Department, Chennai) to contend that where the Revenue Assistant could not complete the survey training due to her maternity leave was considered and a direction was issued to the respondents to restore her seniority to the original position.

6.The learned counsel had relied upon the Hon'ble Division Bench of our High Court in ***WA(MD).Nos.1640 and 1641 of 2017 dated 01.03.2023 (The State of Tamil Nadu, represented by its secretary, Rural Development and Panchayat Raj Department, Chennai and another Vs. K.Socrates and another)*** to impress upon the Court that where the non undergoing of an official training is not due to the fault of the employee, the same should not be put against the employee.

7.In the present case, since the petitioner was on maternity leave, she could not complete the survey training and immediately, after rejoining, she had completed the said training and therefore, she is eligible to the original seniority.

8.Per contra, the learned counsel appearing for the official respondents and the private respondents had contended that since the petitioner was on maternity leave, the authorities could not send her for the survey training. Though the maternity leave period is treated as service period, unless a request emanates from the concerned employee to send her for training, the authorities cannot on their own send the candidate for training. They have further contended that the panel for the post of promotion from the Junior Assistant to Assistant was prepared in the year 2012 and all of them have been promoted. The petitioner also got promoted in the year 2013. For the past 10 years, the petitioner has not even sent any representation to restore her seniority to the original position.

9.They have further pointed out that the re-fixation of seniority that took place in the year 2022 under the impugned order is nothing but re-fixation of interse seniority between the direct recruitees and the promotee revenue assistants. The said re-fixation of the seniority has nothing to do with the present request of the writ petitioner. The writ petitioner seeks to include her name in the panel in the year 2012. Therefore, the re-fixation under the impugned order has nothing to do with the present case. Hence, they prayed for dismissal of the writ petition.

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

11.The petitioner was appointed as a Typist on 03.08.2009 and her probation was declared on 02.08.2011. The crucial date for preparation of panel to the post of Revenue Assistant is 15.03.2012. However, the petitioner had availed maternity leave between 10.11.2012 and 07.05.2012. Since the petitioner had not completed the survey training, her name was not included in the panel and her Juniors were promoted as Revenue Assistants. After rejoining the service, the petitioner has undergone the training between 16.05.2012 and 19.06.2012 and thereafter, got included in the penal for the year 2013 and got promoted. These facts are not in dispute.

12.The petitioner was over looked in 2012 panel for not completing the survey training. A perusal of the typed set of papers and the writ affidavit does not disclose that any representation was given by the writ petitioner at any point of time to include her name in the panel in the year 2012 or to restore her seniority above her Juniors. There is a delay of 10 years.

13.The petitioner would like to take advantage of the impugned order dated 13.04.2022 to explain the delay in approaching the authorities or the

Court. There was a long drawn dispute between the promotee Revenue Assistants and the directly recruited Revenue Assistants with regard to their interse seniority. Only after the said issue was decided by the Hon'ble Supreme Court, the panel impugned in the writ petitioner was prepared fixing the interse seniority between the direct and promotee Revenue Assistant. This impugned panel has nothing to do with the present request of the writ petitioner, since her claim is not against the directly recruited Assistants. Therefore, the petitioner could not take advantage of this order and file this writ petition after a period of 10 years.

14.It is true that the maternity leave period should be treated as service. When the petitioner is on leave, the authorities cannot direct her to undergo a survey training. If the petitioner is interested in undergoing a training even during the maternity leave period, it is for her to approach the authority with such a request. However, in the present case, there are no records to establish the said fact. Immediately after the petitioner had completed her survey training, her name has been included in the panel for the next year and she has been promoted.

15.In view of the above said deliberations, it is clear that the impugned panel dated 13.04.2022 has nothing to do with the panel that was originally prepared in the year 2012 for the Typist to be promoted as a Revenue Assistants. Therefore, this Court is not inclined to interfere in the impugned panel which is meant for fixing of interse seniority between the direct recruitment and promotee Revenue Assistant. The petitioner has prayed to include her name in the Revenue Assistant panel in the year 2012 above the respondents 5 and 6. All the candidates in the panel prepared in the year 2012 have already been promoted and they are working as Revenue Assistants for the past 11 years. Therefore, the said panel is no longer alive. That apart, a subsequent panel had been prepared and many Typists have been promoted as Revenue Assistants. In fact, the petitioner herself has got included her name in 2013 panel and got promoted. Therefore, the request of the writ petitioner to include her name in the Revenue Assistant panel for the year 2012 is also not legally sustainable.

16.In view of the above said discussions, there are no merits in the writ petition and the same stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

19.10.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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4.The District Revenue Officer
Virudhunagar District
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Virudhunagar 626 002

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

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