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W.P.No.5989 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.02.2024

Pronounced on : 20.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.5989 of 2023 and
WMP.Nos.6004 & 6005 of 2023

S.Rajakumar

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Represented by its Secretary to Government,
Revenue and Disaster Management
Department,
Services Wing(SER-3(2)) Section,
Fort St.George,
Chennai 600 009
- 2.The Additional Chief Secretary/Revenue
Administration,
Ezhilagam, 3rd Floor,
Kamarajar Salai,
Chepauk,
Chennai 600 005
- 3.The Commissioner of Land Administration,
2nd Floor, Ezhilagam,
Chepauk,
Chennai 600 005
- 4.The District Collector,
Master Plan Complex NH 205,
Chennai-Tiruttani Hwy,
Thiruallur,



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Tamilnadu 602 001

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... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent with respect to the impugned order dated 18.01.2023 passed by it in G.O.(1D)No.15 and quash the same and consequently direct the first respondent to include the name of the petitioner in the City List of Deputy Tahsildar for the year 2006 and promote the petitioner as Deputy Collector with effect from 2013-14.

For Petitioner : Mr.Vaibhav R.Venkatesh
for Mr.Anirudh A.Sriram

For Respondents : Mrs.R.L.Karthika,
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 18.01.2023 thereby rejected the review petition filed by the petitioner to include his name in the City List of Deputy Tahsildar for the year 2006.

2. The petitioner had joined the service as Junior Assistant in the District Revenue Unit at Ramanathapuram on 05.01.1993. He had completed his probation on 04.02.1995 and was promoted to the post of



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Assistant from 04.01.1996. Thereafter, he was regularised in the cadre of Assistant with effect from 04.01.1996 in Ramanathapuram District Unit. Subsequently, on loan basis, he was transferred to the Office of the Commissioner of Land Administration and joined as Assistant on 24.12.1996. However, there was delay for the concurrence from Tamilnadu Public Service Commission for his transfer to the Office of the Commissioner of Land Administration and it was obtained only on 19.01.1999. Subsequently, as per the order dated 21.07.2011, he was allowed to join in Tiruvallur District Unit and now he is working as Tahsildar, Chennai District. Though the petitioner was eligible to be included for promotion panel of City List of Deputy Tahsildar for the year 2006, his name was not included in the panel. The City List of Deputy Tahsildar panel for the year 2005-2010 was not drawn till 2011. The petitioner had attained all qualifications as early as in the year 2003 on the crucial date 15.09.2003. The panel for promotion to the post of City List of Deputy Tahsildar was published only on 01.04.2011 and the name of the petitioner was included in the City List of Deputy Tahsildar for the year 2007 instead of 2006.



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2.1 Therefore, the petitioner made representation to the respondents to include his name in the list of Deputy Tahsildar for the year 2006 since there is a vacancy for the post of Deputy Tahsildar in the year 2006. It was considered and Joint Commissioner of Revenue Administration sent proposals to the second respondent by recommending the name of the petitioner to be included in the panel of the year 2006. Further, the first respondent also by the proceedings dated 14.05.2013 had sent report to the Commissioner of Revenue Administration with regard to the service rendered by the petitioner and recommended his name. However, it was not considered and as such, once again the petitioner submitted representation. Thereafter, the first respondent by order dated 23.01.2017 rejected the request made by the petitioner in GO.(2)D No.18 on the ground that his name was recommended to be included only in the year 2007 and the person who was included in the year 2006 is not junior to the petitioner. Hence, the petitioner filed review petition before the first respondent and the same was rejected by the order dated 26.11.2019. It was challenged by the



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petitioner before this Court in WP.No.8120 of 2020 and this Court by order dated 02.11.2022, quashed the order passed in the review petition and remanded the review petition back to the first respondent for fresh consideration on merits and in accordance with law. Once again, the first respondent dismissed the petition filed by the petitioner by order dated 18.01.2023.

3. The learned counsel for the petitioner would submit that the review petition filed by the petitioner was rejected on the ground that the petitioner is Promotee Assistant and he is not entitled to any preferential treatment by quoting GO.Ms.No.133 dated 07.02.1995. The Hon'ble Supreme Court of India while examining the validity of the said GO in the case of *M.Rathinaswamy Vs. State of Tamilnadu* reported in (2009) 5 SCC 625, held that there shall be no preferential treatment amongst directly recruited assistants and promotee assistants who are graduates for promotion as Deputy Tahsildar. However, the first respondent holds that the directly recruited assistants are having preferential treatment over the promoted graduate assistants. Further, the first respondent stated



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that as non inclusion of any junior in the City List of Deputy Tahsildar for the year 2006 and as such, the case of the petitioner cannot be considered. Mere fact that amongst the eligible / qualified officials, there was none junior to the petitioner who was available to be included in the city list for the year 2006, could not be held against the petitioner and it is not founded on any statutory rule. Though the first respondent accepted on one hand that the petitioner had qualification for being included in the City List for the year 2006, on the other hand rejected the request made by the petitioner.

4. Heard, the learned counsel appearing on either side.

5. On perusal of the counter filed by the first respondent and on considering the submissions made by the learned counsel appearing on either side, as per Rule 3(a) Category (2) of Tamilnadu Ministerial Service Rules r/w GO.Ms.No.300, Revenue Department dated 10.02.1977, the City List of Deputy Tahsildar has been drawn up every year with the staffs of the aforesaid city offices and qualified and willing



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candidates (Assistants and Superintendents) are being considered for appointment to the post of Deputy Tahsildar in Districts by way of 'recruitment by transfer'. The City List of Deputy Tahsildar for the year 2005 to 2011 was drawn belatedly in the year 2011. The petitioner was recommended for the City List of Tahsildar for the year 2007 and his seniors were recommended for the City List of Deputy Tahsildar in the year 2005 and 2006. In the City List of Deputy Tahsildar for the year 2006 and 2007 under the segment III, out of the total number of two vacancies, one vacancy in each panel was left unfilled for want of qualified hands. In fact, the petitioner made representation on 31.03.2011 requesting to include his name in the list for the year 2007 and the Head of Departments of Land Administration Department by the communication dated 10.03.2011 recommended the petitioner's name for the list of 2007. Further, until drawal of City List of Deputy Tahsildar for the years 2005 to 2010 vide proceedings dated 21.07.2011, the petitioner did not raise any claim for inclusion in the City List of Deputy Tahsildar for the year 2006. Further, the second respondent by its communication dated 22.11.2011 and 13.07.2012, recommended for inclusion of the



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petitioner in City List of Deputy Tahsildar 2006. However, the Government by its GO.(2D) No.18 dated 23.01.2017 rejected the request made by the petitioner on the ground that no person junior than the petitioner was included in the panel for the year 2006. Therefore, this Court quashed the said order and remanded back the matter to the Government for fresh consideration on merits and in accordance with law. Once again, the first respondent rejected the request made by the petitioner on the very same ground and also on the ground that inclusion of one, D.Girirani in the panel for the year 2006 is concerned, the petitioner is the Promotee Assistant whereas the said Girirani is the directly recruited Assistant by quoting GO.Ms.No. 133 Revenue Department dated 07.02.1995.

6. Though the petitioner relied upon the judgment of this Court in the case of *M.Rathinaswamy Vs. State of Tamilnadu* reported in *(2009) 5 SCC 625*, wherein it is held that there shall be no preferential treatment amongst directly recruited Assistants and Promotee Assistants who are all graduates for promotion as Deputy Tahsildar, the validity of



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GO.Ms.No.133 Revenue Department dated 07.02.1995 has been upheld by the Hon'ble Supreme Court of India for the period upto 07.04.2009 and set aside the order passed by this Court treating directly recruited Assistants, Promotee Assistants as equal and issued directions that promotions to the directly recruited Assistants (based on GO.Ms.No.133) with effect from 07.02.1995 to 08.04.2009 and their seniority in their respective positions as on date, shall not be disturbed and the benefit extended to graduate Promotee Assistants by placing them on par with directly recruited Assistants is to be given effect to prospectively from the date of judgment i.e. 08.04.2009 in the case of ***M.Rathinaswamy Vs. State of Tamilnadu***. Therefore, the claim of the petitioner that treating him on par with directly recruited Assistant i.e. the said Girirani for the list of Deputy Tahsildar for the year 2006 (crucial date is 15.09.2006) i.e. prior to 08.04.2009 before the cut off date determined by the Hon'ble Supreme Court of India cannot be considered.

7. The petitioner belongs to the establishment of Commissionerate of Land Administration and other City Offices i.e



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Commissionerate of Revenue Administration /Commissionerate of Land Reforms/Commissionerate of Urban Land Tax and Land Ceiling/Commissionerate of Survey and Settlement / Commissionerate of Adi-Dravidar Welfare/Commissionerate of Backward and Most Backward Classes Welfare etc., are separate establishments for recruitment, seniority and subsequent promotions etc., as per Rule 11 of Tamil Nadu Ministerial Service Rules. Hence, they should not be compared each other for any purpose. Moreover, while drawing the said City List Deputy Tahsildar panel for the year 2005 to 2011, the petitioner has not preferred any option for inclusion of his name in the list for the year 2006. Hence, the petitioner's contention is not true and liable to be rejected as false claim. Further, none of the junior to the petitioner from the Commissionerate of Land Administration establishment was included in the City List of Deputy Tahsildar for the year 2006. Hence, the 1st respondent herein have duly examined the appeal, review and revision petitions of the writ petitioner and repeatedly rejected the same as devoid of merits vide G.O.(2D).No.18, Revenue and Disaster Management Department, dated 23.01.2017 and G.O.(1D).No.567, Revenue and



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Disaster Management Department, dated 26.11.2019 and
G.O.(1D).No.15, Revenue and Disaster Management Department, dated
18.01.2023 on the following grounds:

(i) The name of Tmt D.Girirani was included in the city list of Deputy Tahsildar for the year 2010 in Segment -II for the Commissioner of Revenue Administration establishment and not in the year 2006.

(ii) Tmt.D.Girirani is a Directly Recruited Assistant belonging to the Commissionerate of Revenue Administration and she joined duty as Assistant on 21.02.2000 in Tirunelveli District Revenue Unit and joined in the Commissionerate of Revenue Administration on loan basis w.e.f 23.08.2006. The service of the individual was confirmed in the Commissionerate of Revenue Administration on 25.01.2010. As per G.O.Ms.No.133, Revenue Department, dated 07.02.1995 and according to the last proviso of Annexure-III [Item-II] of Rule 7 (a) of Tamil Nadu Revenue Subordinate Service Rules, an Assistant appointed by direct recruitment in the District Revenue Unit or in the branches of erstwhile Board of Revenue (City Offices), who has completed a total period of



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five years, passed all the tests prescribed and undergone training as Firka Revenue Inspector for a period of two years successfully, shall be eligible for inclusion of his name in the approved list of Deputy Tahsildars in the City List above his seniors appointed other than by direct recruitment or for re-fixation of his seniority over such seniors, if his name has already been included in the list of Deputy Tahsildars. The consideration of his claim shall be against the first vacancy that follows the carried over vacancies. Further, as per Government letter No.17439, Ser 6 (1) / 2006, Revenue Department, dated 09.06.2006, the preferential treatment allowed to the Directly Recruited Assistants based on the said Government order need not be curtailed who have opted for District Transfer. According to the said rule provision and Government orders, the case of Tmt.D.Girirani (Directly Recruited Assistant) was considered for inclusion of her name in the City List of Deputy Tahsildar for the year 2010 even though her service was confirmed in the establishment of Commissionerate of Revenue Administration on 25.01.2010. But, the petitioner Thiru.S.Rajakumar is a Promotee Assistant belonging to the



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Commissionerate of Land Administration and he is not entitled to any preferential treatment.

(iii) The petitioner was having qualification for inclusion in the City List of Deputy Tahsildar 2006. If at all his name has to be included in the above list, his name has to be included above the name of his junior as per rules in force. As none of his junior is included in the above list, his name could not be included in the above list. Therefore, his request was rightly rejected in the Government Order in G.O.(2D). No.18, Revenue and Disaster Management Department, dated 23.01.2017.

8. As such, this Court finds no infirmity or illegality in the impugned order dated 18.01.2023 passed by the first respondent and this writ petition is liable to dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

20.03.2024

Internet: Yes
Index: Yes/No



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Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

1. Secretary to Government,
The State of Tamilnadu,
Revenue and Disaster Management
Department,
Services Wing(SER-3(2)) Section,
Fort St.George,
Chennai 600 009
2. The Additional Chief Secretary/Revenue
Administration,
Ezhilagam, 3rd Floor,
Kamarajar Salai,
Chepauk,
Chennai 600 005
3. The Commissioner of Land Administration,
2nd Floor, Ezhilagam,
Chepauk,
Chennai 600 005
4. The District Collector,
Master Plan Complex NH 205,
Chennai-Tiruttani Hwy,
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