
(2007) 10 MAD CK 0180
In the Madras High Court
Case No : Writ Petition No. 14840 of 2005

P. Raman

APPELLANT

Vs

The Principal Commissioner and Commissioner for Revenue
Administration, The Collector and Mr. P. Antony

RESPONDENT

Date of Decision : 03-10-2007

Acts Referred:

Constitution of India, 1950 — Article 14
Tamil Nadu Revenue Subordinate Service Rules — Rule 22, 7

Citation : (2007) 10 MAD CK 0180

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Advocate : K. Rajkumar, for the Appellant; Lita Srinivasan, Government
Advocate, for the Respondent

Final Decision : Dismissed

Judgement

S. Manikumar, J.—Brief facts leading to the Writ Petition are as follows:

2. On 15.10.1973, the petitioner was appointed as Junior Assistant through Tamil Nadu Public Service Commission and posted at Tirunelveli Revenue Unit. Thereafter, he was promoted to the cadre of Assistant on 19.08.1981 and due to bifurcation of Tirunelveli District with effect from 20.10.1986, he was posted at Chidambaranar District. It is the case of the petitioner that he was eligible for the post of Deputy Tahsildar in the year 1986 and being a Scheduled Caste Community, he is also entitled to preference, as prescribed under Rule 22 of the General Rules of rotation vide G.O.Ms.No. 206, P & AR (Per) Department, dated 07.04.1989.

3. The petitioner further submitted that the District Collector, Chidambaranar District, second respondent herein, published an approved list of Deputy Tahsildars for the year 1986 on 14.02.1987. Though the petitioner was qualified before the preparation of panel, his name was not included in the said list. Therefore, he made representation to the second respondent to include his name

in the said panel and since no order was passed, he filed an appeal to the then Principal Commissioner and Commissioner for Revenue Administration, first respondent herein and by order dated 13.01.1994, the first respondent rejected the appeal on the sole ground that on the crucial date, 15.09.1986, the petitioner was not qualified to the post of Deputy Tahsildar.

4. It is the case of the petitioner that 15.09.1986 should not be taken as the crucial date for drawal of panel for Chidambaranar District, as the District itself was formed only on 20.10.1986. Though seven vacancies were reserved for SC/ST candidates, they were carried over for nearly four years without any valid reasons. However, petitioner's name was included in the approved list of Deputy Tahsildars for the year 1991 and he was promoted thereafter. In these circumstances, the petitioner has challenged approved list issued by the District Collector, Chidambaranar District, second respondent herein, dated 14.02.1987 and the proceedings of the then Principal Commissioner and Commissioner for Revenue Administration, the first respondent herein, dated 13.01.1994 and for inclusion of his name at the appropriate place and for monetary benefits, as stated above.

5. Mr. K. Rajkumar, learned Counsel for the petitioner submitted that since Chidambaranar District was bifurcated only on 20.10.1986, long after the crucial date fixed in the Special Rules, for the preparation of panel of the Deputy Tahsildar for the year 1986, the respondents ought to have taken 14.02.1987 as the crucial date for drawal of panel of the Deputy Tahsildar and therefore, the impugned panel drawn is erroneous. He further submitted that since the petitioner had already qualified on 17.11.1986, the date on which, he appeared for the Account test prescribed for Subordinate Officers Part-I, his name ought to have been included for the post of Deputy Tahsildars for the year 1986. He further submitted that though the approved list was drawn on 14.02.1987, the revised list was finalised only on 03.11.1987 and since the petitioner was fully qualified before the finalisation of the list, the respondents ought to have included his name in the panel.

6. Referring to Rule 22 of the General Rules and G.O.Ms.No. 405 (P & AR) Department, dated 12.07.1989, learned Counsel for the petitioner submitted that even if there were no SC/ST candidates available for the particular year of selection, the vacancies earmarked for them would not lapse and therefore, the petitioner ought to have been considered atleast in the subsequent years, as seven posts of Deputy Tahsildars earmarked for SC/ST remained vacant. He further submitted that the action of the second respondent in drawing up a "Nil" panel for the subsequent four years is arbitrary and thus, the petitioner is denied of promotion to the post of Deputy Tahsildar by four years.

7. On instructions, Mrs. Lita Srinivasan, learned Government Advocate for the respondent submitted that Chidambaranar District started functioning from the year 1986 and the crucial date for the panel of Deputy Tahsildar, as per the Tamil Nadu Revenue Subordinate Service Rules, is 15.09.1986. She further submitted

that when the proposals for qualified persons for the post of Deputy Tahsildar was called for, the petitioner was not qualified, as per Annexure III to Rule 7(a) of the Tamil Nadu Revenue Subordinate Service Rules. She further submitted that the petitioner appeared in the Account Test Part -I, one of the prescribed tests for the individuals to qualify themselves for promotion to the post of Deputy Tahsildar, the results were published on 16.02.1987 and taking into consideration, the date of appearance in the said examination, i.e., 17.11.1986, the petitioner is deemed to be qualified only in November" 1986. As the petitioner was not qualified on the crucial date i.e., on 15.09.1986, his name was not rightly included in the panel of Deputy Tahsildars for the year 1986-87.

8. Learned Government Advocate further submitted that out of 9 vacancies reserved for SC/ST candidates, two qualified candidates were included in the list of Deputy Tahsildar for the year 1986 and the remaining 7 posts were filled up in the year 1991 and between 1987 and 1990, "Nil" list of Deputy Tahsildar was drawn for want of vacancy. She further submitted that as the petitioner did not qualify himself on the crucial date i.e., 15.09.1986, his request for inclusion in the panel of Deputy Tahsildar for the year 1986, was rejected by the first respondent.

9. Learned Government Advocate further submitted that the petition submitted by the petitioner to the Secretary to the Government, Revenue Department, Chennai, requesting to condone the delay of 63 days for the eventual inclusion of his name in the list of Deputy Tahsildar for the year 1986, was also rejected by the Government in G.O.(D).No. 358, Revenue (G) Department, dated 20.06.1996 and when later order of the Government is not challenged, the relief sought in this Writ Petition, seeking to quash the order of the then Principal Commissioner and Commissioner for Revenue Administration, Madras, the first respondent, dated 13.01.1994 does not survive and therefore, she prayed for dismissal of the Writ Petition.

Heard Mr. K. Rajkumar, learned Counsel for the petitioner and Mrs. Lita Srinivasan, learned Government Advocate for the respondents.

10. Chidambaranar District was bifurcated and started functioning from 20.10.1986. Admittedly, the petitioner had appeared in the Account Test Part-I on 17.11.1986 and the results were published by the Tamil Nadu Public Service Commission only on 16.11.1987 and therefore, as per the procedure, the petitioner is deemed to be qualified only on 17.11.1986, after a delay of 63 days, from the crucial date viz., 15.09.1986. As per the Tamil Nadu Subordinate Service Rule, the crucial date for empanelment of eligible candidates is 15.09.1986. Candidates aspiring for promotion should have passed the prescribed tests prescribed for the post, besides other eligibility criteria prescribed for the promotional post under the Rules. The date of creation of a new District or the date of drawal of panel cannot be fixed as the crucial date for screening the candidates as regards their eligibility criteria. If the arguments of the counsel for the petitioner has to be accepted, then, whenever new districts

are created, different dates should be fixed and adopted for the purpose of empanelment of candidates in those districts for promotion to different categories. Such procedure would certainly create confusion and there will not be any uniformity in the preparation of the panel for different categories. Cut off date is fixed under the service rules for the purpose of identifying the eligible candidates and Courts do not have the competence to direct the authorities to adopt a different date to suit the convenience of a Government servant. A Government servant can insist that his name be considered for promotion to a higher post, only if he is qualified for that particular post on the crucial date and not otherwise. Therefore, the non-inclusion of the name of the petitioner in the approved list of the Deputy Tahsildar for the year 1986 cannot be termed as arbitrary and violative of Article 14 of the Constitution of India.

11. Reliance on Rule 22 of the General Rules and the Rule of rotation approved in G.O.Ms.No. 206, P & AR Department, dated 07.04.1989, prescribing reservation and communal rotation in the matter of appointment of Scheduled Caste candidates, do not apply to the case of the petitioner, as he was not qualified on the crucial date. Further, if the respondents had drawn "Nil" panels for the subsequent four years, thus depriving the chance of promotion of the petitioner in the next year or thereafter, the petitioner ought to have approached the competent authority, seeking redressal against the action of the second respondent.

12. After filing of the Original Application, the petition to the Government for condonation of 63 days delay in inclusion in the list of Deputy Tahsildars for the year 1986, has been rejected by the Government by their letter in G.O.(D).No. 358, Revenue (G) Department, dated 20.06.1996. The order which is challenged in this Writ Petition has eventually merged with the order of Government and the petitioner has not taken out any amendment of pleadings or relief in the Writ Petition.

13. In view of the above, the petitioner, having not satisfied the requisite qualifications prescribed under Rule 7(a) of the Tamil Nadu Revenue Subordinate Service Rules, on the date of panel, fixed under the Service Rules, cannot seek for inclusion in the panel of Deputy Tahsildar for the year 1986. I do not find any illegality or irregularity in the preparation of panel.

14. In the result, the Writ Petition is dismissed. No costs.