
(2014) 06 MAD CK 0325

In the Madras High Court

Case No : Writ Petition No. 6264 of 2013 and M.P. No. 1 of 2013

S. Arumugam

APPELLANT

Vs

Principal Secretary/Commissioner of Revenue Administration

RESPONDENT

Date of Decision : 12-06-2014

Acts Referred:

Citation : (2014) 6 MLJ 97

Hon'ble Judges : S. Vaidyanathan, J

Bench : Single Bench

Judgement

S. Vaidyanathan, J.—This Writ Petition has been filed seeking for issue of a writ of certiorarified mandamus, to call for the records of the impugned proceedings, dated 30.10.2010, passed by the second respondent and to quash the same, and consequently, to direct the second respondent to include the petitioner's name in the panel drawn for promotion to the post of Deputy Tahsildar for the year 2010 from carry over vacancies applicable to SC/ST. The case of the petitioner, as stated in the affidavit, filed in support of this Writ Petition, in short, is that he joined the service of the Revenue Department, as Village Administrative Officer, on 12.3.1984. Subsequently, he was promoted to the post of Assistant, on 17.6.2006. The petitioner belongs to SC community and as such, he is entitled to get further promotion to the post of Deputy Tahsildar. The grievance of the petitioner is that, the second respondent/District Collector, vide proceedings, dated 30.10.2010, released a panel drawn for promotion to the post of Deputy Tahsildar, for the year, 2010, wherein, the name of the petitioner did not figure out, whereas, his junior's name, viz., Gunasekaran, was found place. According to the petitioner, he is eligible for promotion to the said post, as he has completed all the departmental exams and also possessed of required years of service in the post of Revenue Inspector, during the year 2007-2009 and rendered blemishless service. But, his name was not included in the said panel, on the ground of non-completion of service requirements, as he has not undergone 7 days of settlement training at Orathanadu. Being aggrieved by the said impugned proceedings, dated 30.10.2010, the petitioner preferred an

Appeal before the first respondent/Principal Secretary and Commissioner of Revenue Administration, on 09.11.2010 and the first respondent also sought for certain clarifications from the second respondent. The second respondent, by his letter/reply, dated 15.7.2011 to the first respondent, admitted the lapse on his part in not sending the petitioner to the settlement training and also stated that the petitioner is in no way responsible for it. As there is no mistake on the part of the petitioner, he has approached this Court, by way of filing this Writ Petition, seeking for the relief, as stated supra.

2. The learned counsel appearing for the petitioner has submitted that, when the second respondent/District Collector, himself has admitted the lapse in not sending the petitioner to the settlement training, the petitioner cannot be mulcted by denying promotion, to which, he is entitled to. That apart, his junior, by name Gunasekaran has been included in the said panel, whereas, the petitioner's name has not been included for no fault of his. Therefore, the learned counsel submitted that the impugned proceedings, passed by the second respondent, dated 30.10.2010, are vitiated, unsustainable and liable to be set aside insofar as the petitioner is concerned and consequently, the second respondent should be directed to interpolate the name of the petitioner in the said panel.

3. The learned counsel appearing for the petitioner, so as to fortify his case, has placed reliance on the judgment rendered by this Court in W.P. No. 9354 of 2012, dated 17.04.2012, in re A. Badrachalam v. The Principal Secretary/Commissioner of Revenue Administration, Chepauk, Chennai and Another, wherein, this Court, in similar circumstances, has considered about the posting of a person in a particular category and held that the employee will have no control over the action of the Department and it is not the case of the respondent, that the petitioner was offered the posting as Assistant and he declined to work in the same and in the absence of any such averments, the petitioner is entitled to the relief, prayed for. In the case on hand as well, the petitioner wants promotion to the post of Deputy Tahsildar and there is no auxiliary averment to that effect either in written or in factual. In the afore cited case, this Court has relied upon the decision reported in S. Krishna Kumar Vs. The State of Tamilnadu, wherein, it is held that for not attending foundation training, which is not due to the fault of the employee, the employee cannot be denied placing of his name in the panel for promotion and in that case, the notional promotion was directed to be given to the petitioner, as he had attained the age of superannuation. In the very same judgment, it has been held that not deputing the petitioner to one year training cannot be attributed against him, as he was prevented by the Department to undergo the training. The learned counsel for the petitioner, therefore, prayed for, allowing this Writ Petition.

4. The respondents have not filed any counter affidavit. However, Mr. R. Laxmi Narayanan, the learned Special Government Pleader appearing for the respondents has contended that when the panel for promotion to the post of

Deputy Tahsildar, for the year 2010 was prepared, the petitioner was found to be ineligible, and hence, his name was not included in the panel. In the panel drawn for the year, 2011, the petitioner became eligible, hence, his name has been forwarded to the Government for inclusion and promotion to the post of Deputy Tahsildar.

5. In reply to the aforesaid submission made by the learned Special Government Pleader for the respondents, the learned counsel appearing for the petitioner has placed reliance on the judgment rendered by the Hon''ble Division Bench of this Court in W.A. No. 2216 of 2013, dated 03.04.2014, in the case of The Additional Chief Secretary, Commissioner of Revenue Administration, Chepauk v. M. Jayabharathi and Others wherein, in similar circumstances, relief was granted to the employee/petitioner therein on the ground that petitioner was not at fault. In the case on hand also, second respondent/District Collector, in his letter, dated 15.10.2010, made it very clear that the petitioner was not at fault for not attending the settlement training. Thus, in view of the foregoing discussions, this Court is of the opinion that the petitioner has made out his case for considering his name for inclusion in the panel for promotion to the post of Deputy Tahsildar by the second respondent, in the panel prepared for the year, 2010 or 2011, as the case may be. Accordingly, this Writ Petition is allowed and the impugned proceedings passed by the second respondent, dated 30.10.2010, are set aside and the second respondent-District Collector is directed to consider the name of the petitioner for inclusion in the panel drawn for promotion to the post of Deputy Tahsildar, if there is no legal impediment and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected M.P. is closed.