

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.33299 of 2015

1.M.Samykannu
2.P.Natesan
3.A.Samuel Jones Christopher
4.M.Vijayaselvam
5.S.Jeganathan
6.M.Natesan
7.W.Calet Cecilia
8.R.Durairaj

... Petitioners

Vs.

1. State of Tamil Nadu,
Rep. Principal Secretary to Government,
Welfare of Differently Abled Department,
Secretariat, Chennai-600 009.
2. The State Commissioner for Differently Abled,
K.K.Nagar, Chennai-600 078.
3. Assistant Special Officer,
Commissioner for Differently Abled,
K.K.Nagar, Chennai-600 078.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to consider the claim of the petitioners and pass appropriate orders for inclusion of their names in the panel for recruitment by transfer as Junior Assistant in the year 1997 with effect from the date of such recruitment of their junior counterparts in the Social Welfare and Nutritious Noon Meal Scheme Department and Welfare of Differently Abled Department and for consequential benefits including the promotions to the higher posts granted to the junior with all benefits, notionally within a time limit.

For Petitioners : Mr.M.Ravi

For Respondents : Mr.V.Subbiah,
Special Government Pleader

O R D E R

By consent this writ petition is taken up for final disposal.

2. The petitioners said to have joined the service as Chief Warden/Electrician/Chief Guard/Head Warden in the Government Care Camp and Government Rehabilitation Homes, in various districts on various dates and originally those homes comes under the control and supervision of the Social Welfare Department in the year 1997 and consequently, their names should have been included in the panel for promotion to the post of Junior Assistants and in accordance with G.O.Ms.No.203, P&AR(S) Department dated 30.10.2000, which provides for retrospective promotion of those qualified and eligible persons who are omitted to be included in the panel, with effect from the date of such promotion of their juniors and they are eligible for all consequential and service benefits and therefore, it is the case of the petitioners that they are eligible for inclusion in the promotion panel even in the year 1997. One of the colleagues of the petitioners have submitted a representation in that regard and the first respondent, vide communication dated 14.08.2015, has informed him that as per Rule 3(g) of the Tamil Nadu Ministerial Service Rules, appointment by transfer of service to the post of Junior Assistant can be given only for those holding posts which carry lesser Scale of Pay than that of Junior Assistant and person holding the posts carrying pay scale equal to that of Junior Assistant cannot be appointed as Junior Assistant by transfer of service method and it is further stated that only 20% of the vacancies of Junior Assistants can be filled up by transfer from lower posts in accordance with the said Rule. The petitioners have submitted individual representations dated 04.09.2015 to the respondents requesting that in terms of Rules 2(15) of the Tamil Nadu State and Subordinate Service Rules, their claim has to be favourably considered and since no order has been passed, came forward to file this writ petition.

3. Heard the submissions of Mr.V.Subbiah, learned Special Government Pleader who accepts notice for the respondents.

4. Though the petitioners have prayed for larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the petitioners' representation dated 04.09.2015, directs the first respondent to consider and dispose of the petitioners' representation

dated 04.09.2015, in the light of Rule 2(15) of the Tamil Nadu State and Subordinate Service Rules, after putting on notice the persons concerned and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners.

5. This Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

jvm

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Welfare of Differently Abled Department,
Secretariat, Chennai-600 009.
2. The State Commissioner for Differently Abled,
K.K.Nagar, Chennai-600 078.
3. The Assistant Special Officer,
Commissioner for Differently Abled,
K.K.Nagar, Chennai-600 078.

+1cc to Mr.M.Ravi, Advocate, S.R.No.57303

+1cc to the Government Pleader, S.R.No.57518

W.P.No.33299 of 2015

GR(CO)
CA(29/10/2015)

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