

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2016
(Reserved On : 29.04.2016)

Coram

The Hon'ble Mr. Justice T.RAJA

W.P. No.37467 of 2015

V.Manavalan

... Petitioner

Vs

The Secretary to Government of Tamil Nadu,
Public (General II) Department,
Fort St. George,
Chennai - 600 009.

... Respondent

Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus to call for the records of the respondent in connection with the impugned order passed by him in Letter No.29316/General-II/2015-1, Public (General-II) Department, dated 11.09.2015 and quash the same and direct the respondent to consider the claim of the petitioner for promotion as Assistant Reception Officer in commensurate with the petitioner's seniority and educational qualification and promote or upgrade the petitioner as such in the State Guest House, Chepauk, Chennai - 5 or at the Tamil Nadu House, New Delhi and grant the petitioner all consequential service and monetary benefits at par with his junior.

For petitioner .. Mr.K.Venkatramani, SC
for Mr.M.Muthappan

For Respondent .. Mr.S.Gunasekaran, AGP

O R D E R

By way of filing this writ petition, the petitioner seeks to quash the impugned proceedings dated 11.09.2015 passed by the respondent, in and by which, the claim of the petitioner seeking promotion to the post of Assistant Reception Officer was rejected on two grounds; (i) the post of Senior Liaisoning Assistant in which he is currently working is not a feeder category for promotion to the post of Assistant Receipt Officer; and (ii) he did not possess the educational qualification as stipulated under Rule 19 of the General Rules of the Tamil Nadu State and Subordinate Service Rules.

2. The petitioner was initially appointed as Telephone Operator in the Tamil Nadu House, New Delhi, on 18.05.1995 in the scale of pay of Rs.975-25-1150-30-1660. Thereafter, after 8 years of service, he was posted to serve in the additional post of Senior Liaisoning Assistant which was created at the Tamil Nadu House, New Delhi, in order to assist the Resident Commissioner and the Special Resident Commissioner to liaison with the Government of India vide G.O.Ms.No.159, Public (General-II) Department, dated 07.02.2003. The said post of Senior Liaisoning Assistant is equivalent to the category of Assistant in Tamil Nadu House, New Delhi. While so, vide G.O.Ms.No.250, Public General-II Department, dated 07.03.2005, adhoc rules were framed for the post of Senior Liaisoning Assistant stating that nothing contained in the rules shall adversely affect any person holding the post on the date of issuing the said G.O. However, on 16.04.2005, one junior to the petitioner who was serving as Receptionist was promoted to the post of Assistant Reception Officer overlooking the persons already serving in the Department. Hence, he made a representation to the Special Resident Commissioner claiming seniority on par with his junior and also sought for upgradation of the post of Senior Liaisoning Assistant to the post of Liaison Officer. Such claim of the petitioner was also recommended by the Special Resident Commissioner to the Secretary to Government, Public General II Department.

3. While the matter stood above, unfortunately, the petitioner was transferred to the State Guest House, Chennai, in the place of one Mr.Soman, who was serving as Receptionist. Due to his transfer, though many of his juniors were given multiple promotion by relaxing the educational qualification at the Tamil Nadu House, New Delhi, he could not get his service regularised and claim promotion, hence, he made several representations to the respondent praying for due promotion and also pay revision on par with his junior, the last of such representation was on 03.02.2014. However, there was no response from the respondent. Finally, he filed a Writ Petition No.17379 of 2015 before this Court praying for a mandamus to consider him for promotion as Assistant Reception Officer, but, this Court, by order dated 18.06.2015, directed the respondent to consider his representation and pass orders on merits and in accordance with law within a period of 12 weeks. Thereafter, the respondent, by way of passing the impugned proceedings dated 11.09.2015, rejected the request of the petitioner claiming promotion to the post of Assistant Reception Officer on two grounds; (i) the post of Senior Liaisoning Assistant in which he is currently working is not a feeder category for promotion to the post of Assistant Reception Officer; and (ii) he did not possess the educational qualification as stipulated under Rule 19 of the General Rules of the Tamil Nadu State and Subordinate Service Rules. Thus, the present writ petition with a prayer cited supra.

4. Assailing the impugned proceedings of the respondent, Mr.K.Venkatramani, learned Senior counsel appearing for the respondent, submitted that the first reason assigned by the respondent that the post of Senior Liaisoning Assistant in Tamil Nadu House is not a feeder category for appointment to the post of Assistant Reception Officer in view of Rule position is absolutely incorrect and unsustainable, for, as per the Rule enacted by the Government in G.O.Ms.No.250, Public (General-II) Department, dated 07.03.2005, the persons, who are serving in the feeder category post of Senior Liaisoning Assistant, are eligible for promotion to the post of Assistant Reception Officer and as such, the claim of the petitioner can be considered either by promotion from the feeder category post of Senior Liaisoning Assistant or by recruitment by transfer of service even from among the persons serving in the Tamil Nadu House from the post of Junior Assistant, Telephone Operator, Storekeeper or Typist, hence, the petitioner, who was initially appointed as Telephone Operator, is fully justifiable for promotion to the post of Assistant Reception Officer in view of the above said Rule position, he contended.

5. Attacking the second ground assigned by the respondent stating that the petitioner did not possess the requisite educational qualification for promotion, learned Senior counsel contended that one Mr.Chinnadurai, who is now serving as Deputy Commissioner, Tamil Nadu House, New Delhi, was promoted to the post of Assistant Reception Officer from the post of Receptionist and at the time of his appointment, his qualification was only an M.A. obtained from the Open University (Annamalai University) after +2 qualification, like the petitioner, who has also acquired M.A. Degree through distance education from Annamalai University, therefore, the denial of promotion to the petitioner on the ground that he acquired M.A. Degree through Open University, when the department has considered the claim of another person as stated above, cannot be accepted and on that basis, learned Senior counsel contended that two grounds assigned by the respondent in rejecting the request of the petitioner for promotion as Assistant Reception Officer at Tamil Nadu House, New Delhi, are unacceptable and unsustainable.

6. It is the further contention of the learned Senior counsel that while the petitioner was serving as Senior Liaisoning Assistant, Tamil Nadu House, Delhi, he was transferred from Delhi to State Guest House, Chennai, and posted therein as Receptionist in the place of one Tr.Soman, who was serving as Receptionist in the State Guest House, Chennai, and he was posted therein as Assistant Reception Officer. Therefore, when a Senior Receptionist can be promoted as Assistant Reception Officer, there is no harm in promoting the

Senior Liaisoning Assistant/petitioner herein as Assistant Reception Officer. It is further submitted that the petitioner, on transfer to Chennai, was posted as Receptionist which is equavelent to the Senior Receptionist and Senior Liaisoning Assistant posts prevailing in the Tamil Nadu House, New Delhi, hence, learned Senior counsel contended, the claim of the petitioner for promotion to the post of Assistant Reception Officer based on his feeder category post of Senior Liaisoning Assistant cannot be denied, hence, the reasons assigned by the respondent in the impugned order are absolutely unsustainable and the same is liable to be quashed.

7. Per contra, S.Gunasekaran, learned Additional Government Pleader, appearing for the respondent, submitted that after eight years of his services in the post of Telephone Operator at the Tamil Nadu House, New Delhi, the petitioner was appointed as Senior Liaisoning Assistant, which was created vide G.O.Ms.No.159, Public (General - II) Department, dated 07.02.2003, for one year in the pre-revised scale of pay of Rs.4000-100-6000. Again, in G.O.Ms.No.1698, Public (General-II) Department, dated 12.12.2003, it was directed that the post of Senior Liaisoning Assistant in Tamil Nadu House, New Delhi, be equated to the common category post of Asisstant in Tamil Nadu House, New Delhi. The petitioner, vide office proceedings dated 06.06.2006, was relieved from his duties as Senior Liaisoning Asisstant, Tamil Nadu House, New Delhi, on administrative reasons and posted at the State Guest House, Chennai, as Receptionist. The post of Senior Liaisoning Assistant in Tamil Nadu House, New Delhi, and the post of Receptionist in State Guest House, Chennai, carry identical scale of pay, which is Rs.9300-34800 + Grade pay Rs.4200. Whileso, he made a representation dated 03.02.2014 to the Government requesting to consider his appeal for effecting his eligible promotion and the consequential benefits from the date of his appointment as Senior Liaisoning Assistant on 11.02.2003 at Tamil Nadu House, New Delhi, and then to post him as Assistant Reception Officer in the State Guest House, Chennai. He further submitted that Tamil Nadu House, New Delhi, and State Guest House, Chennai, are two different establishments having separate service Rules for the posts sanctioned thereof and the staff of the above Guest Houses cannot be inter-transferred or absorbed into each other. Hence, he pleaded, the period spent by the petitioner as Receptionist in State Guest House, Chennai, from 29.05.2006 to 28.02.2014 has been regulated as Other Duty vide office proceedings No.598, Public (General - II) Department, dated 28.02.2014. Accordingly, the Principal Resident Commissioner, Tamil Nadu House, New Delhi, in his letter dated 24.07.2014, had recommended the name of the petitioner for appointment to the post of Assistant Reception Officer, Tamil Nadu House, New Delhi, however, the name of the petitioner was not considered for empanelment to the post of Assistant Reception Officer for

the year 2014-2015, since the post of Senior Liaisoning Assistant has not been prescribed as feeder category to the post of Assistant Reception Officer, for, he did not fulfill the educational qualification as stipulated under Rule 19 of the General Rules for Tamil Nadu State and Subordinate Services, though the services rendered by him as Telephone Operator, one of the feeder category to the post of Assistant Reception Officer was taken into consideration. Thus, he pleaded, the claim of the petitioner as stated above cannot be sustained, therefore, the present writ petition filed by him seeking such benefit is liable to be dismissed.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. It is an admitted fact that after a period of 8 years of service as Telephone Operator in which he was appointed on 18.05.1995, the petitioner was promoted as Senior Liaisoning Assistant, vide G.O.Ms.No.159, Public (General-II) Department, dated 07.02.2003 and that the said post was created at the Tamil Nadu House, New Delhi, to assist the Resident Commissioner and the Special Resident Commissioner to liaison with the Government of India at New Delhi. Thereafter, on 24.05.2006, he was transferred on administrative reasons to the State Guest House, Chennai, and he was posted therein as Receptionist, vis-a-vis, transfer of one Mr.Soman, who was serving as Receptionist and he was posted as Assistant Reception Officer at the Tamil Nadu House, New Delhi. The post of Senior Liaisoning Assistant in Tamil Nadu House, New Delhi and the post of Receptionist, State Guest House, Chennai, carry identical scale of pay of Rs.9300-34800 + Grade Pay Rs.4200/-.

10. In such circumstances, the petitioner made a representation dated 03.02.2014 to the Government requesting to consider his appeal for effecting his eligible promotion and the consequential benefits from the date of his appointment as Senior Liaisoning Assistant on 11.02.2003 at Tamil Nadu House, New Delhi, and then to post him as Assistant Reception Officer in the State Guest House, Chennai. The Principal Resident Commissioner of the Tamil Nadu House at New Delhi in his proceedings dated 24.07.2014 has recommended the claim of the petitioner for promotion to the post of Assistant Reception Officer at the Tamil Nadu House, New Delhi. However, the said claim of the petitioner was rejected by the respondent on two grounds; (i) the post of Senior Liaisoning Officer in which he is currently working is not a feeder category for promotion to the post of Assistant Receipt Officer; and (ii) he did not possess the educational qualification as stipulated under Rule 19 of the General Rules of the Tamil Nadu State and Subordinate Service Rules.

11. The Rules relating to Senior Liaisoning Assistant in the office of the Principal Resident Commissioner, Tamil Nadu House, New Delhi, was enacted in G.O.Ms.No.250, Public (General - II) Department, dated 07.03.2005 and as per the said G.O., the following method will have to be followed for appointment to the post of Senior Liaisoning Assistant.

"Appointment to the post shall be made;

(i) by direct recruitment (or)

(ii) By recruitment by transfer from among the holders of the posts of Receptionist in the Tamil Nadu General Subordinate Services or Steno Typist in the Tamil Nadu Secretariat Services and working in the Tamil Nadu House, New Delhi or from any other service; or

(iii) By promotion from among the holders of the post of Junior Assistant, Typist, Telephone Operator and Store Keeper in the Tamil Nadu Ministerial Service, working in the Tamil Nadu House, New Delhi.

No doubt, on satisfaction of the 3rd condition mentioned above, the petitioner was promoted and appointed as Senior Liaisoning Assistant at the Tamil Nadu House, New Delhi, vide G.O.Ms.No.159, Public (General - II), dated 07.02.2003. However, the respondent, by way of passing the impugned order, rejected the request of the petitioner for promotion to the post of Assistant Reception Officer on the ground that the post of Senior Liaisoning Officer is not a feeder category for appointment to the post of Assistant Reception Officer.

12. In this context, it is relevant to refer to the G.O.Ms.No.134, Personnel and Administrative Reforms (PR1) Department, dated 08.06.1994, which prescribes procedures for appointment to the post of Assistant Reception Officer and the same are extracted below:

"1-B Assistant Reception Officer,
Tamil Nadu House, New Delhi:

i) By direct recruitment; or

ii) By transfer from Assistant
Section Officer; or

iii) By promotion from among the steno-typists in Tamil Nadu House, New Delhi; or

iv) By recruitment by transfer from the holder of the post of Receptionist or House Keeper in the Tamil Nadu General Subordinate Service or from the post of Junior Assistant, Telephone Operator, Store-keeper or typist in Tamil Nadu House, New Delhi in the Tamil Nadu Ministerial Service or from any other service.”

Clause iv of the above said G.O. clearly depicts that the post of Assistant Reception Officer can be filled by transfer from the post of Receptionist or House Keeper in the Tamil Nadu General Subordinate Service or from the post of Junior Assistant, Telephone Operator, Store-keeper or typist in the Tamil Nadu House, New Delhi. While such being the admitted scenario, in the case on hand, since the petitioner was initially appointed as Telephone Operator on 18.05.1995 at the Tamil Nadu House, New Delhi, his claim for promotion to the post of Assistant Reception Officer can be considered, therefore, the first reason given in the impugned order is bad, hence, the same is liable to be rejected.

13. Again, another contention of the respondent that in Rule 5 of the Special Rules for Tamil Nadu Secretariat Service, the posts of Senior Liaisoning Assistant / Senior Receptionist in Tamil Nadu House, New Delhi, have not been prescribed as feeder posts to the post of Assistant Reception Officer in Tamil Nadu House, New Delhi, hence, the petitioner, who has been serving as Senior Liaisoning Assistant, cannot be considered for the promotional post of Assistant Reception Officer, also does not hold any merit, for the reason that Rule 5 of the Special Rules for Tamil Nadu Secretariat Service prescribes the method for appointment to the post of Assistant Reception Officer in Tamil Nadu House, New Delhi, and the same is reproduced hereunder:

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1B	Assistant Reception Officer, Tamil Nadu House, New Delhi	(i)	By direct recruitment; or
		(i)	By transfer from Assistant
		ii	Section Officers; or
		(i)	By promotion from among the
		ii	Steno-Typists in Tamil Nadu
		)	House, New Delhi; or
		(i	By recruitment by transfer from
		v)	the holders of the post of
			Receptionist or House Keeper in
			the Tamil Nadu General
			Subordinate Service or from the
			post of Junior Assistant,
			Telephone Operator, Store-Keeper
			or Typist in Tamil Nadu House,
			New Delhi in the Tamil Nadu
			Ministerial Service or from any
			other service:

A close reading of clause (iv) makes it clear that the post of Assistant Reception Officer in Tamil Nadu House can be filled in by transfer from the posts of Receptionist or House Keeper in the Tamil Nadu General Subordinate Service or from the posts Junior Assistant, Telephone Operator, Store-Keeper or Typist in Tamil Nadu House, New Delhi, in the Tamil Nadu Ministerial Service or from any other service. Admittedly, in the case on hand, since the petitioner was initially appointed as Telephone Operator at the Tamil Nadu House, New Delhi, on 18.05.1995, he is eligible to be considered to the post of Assistant Reception Officer. It is also another vital fact that after 8 years of service in the post of Telephone Operator, he was posted to serve as Senior Liaisoning Assistant vide G.O.Ms.No.159, Public (GL.II) Department, dated 07.02.2003, issued by the Secretary to Government. Paragraph 3 of the said G.O. shows that Mr.V.Manavalan / petitioner herein has gained very good experience in interacting with various Ministries in the Central Government and other Departments in New Delhi and thus, he is capable of handling the liaisoning work. For better appreciation, paragraphs 3 and 4 of the said G.O. are extracted below:

"3. Thiru. V. Manavalan, Telephone Operator, Tamil Nadu House, New Delhi, has gained very good experience in interacting with various Ministries in the Central Government and other Departments in New Delhi and thus he is capable of handling the above said liaisoning work.

4. The Government after consideration accord sanction for the creation of one temporary post of Senior Liaisoning Assistant (unclassified) in the scale of pay of Rs.4000-100-6000 for one year from the date of issue of orders in Tamil nadu House, New Delhi. The Government also directs that Thiru V. Manavalan, Telephone Operator, be appointed temporarily to act as Senior Liaisoning Assistant in Tamil Nadu House, New Delhi, in the above post."

14. Again, another proceeding dated 11.02.2003 of the Resident Commissioner shows that the petitioner was temporarily appointed to act as Senior Liaisoning Assistant in Tamil Nadu House, New Delhi, for one year i.e. from 07.02.2003 to 06.02.2004. One another Government Order passed in G.O.Ms.No.1698, Public (General - II) Department, dated 12.12.2003, states that the post of Senior Liaisoning Assistant in Tamil Nadu House, New Delhi, be equated to the common category post of Assistant in Tamil Nadu House, New Delhi, and that the scale of pay of the above post be revised from Rs.4000-100-6000 to Rs.5000-150-8000 with effect from 07.02.2003. Therefore, when the post of Senior Liaisoning Assistant is equated to the common category post of Assistant in Tamil Nadu House, New Delhi, the respondent cannot deny the promotion to the post of Assistant Reception Officer, especially when Rule 5 (iv) of the Special Rules enables even the posts of Junior Assistant, Telephone Operator, Store-Keeper or Typist to be considered for promotion to the post of Assistant Reception Officer. Thus, the contention of the respondent that the posts of Junior Assistant, Telephone Operator, Store-Keeper or Typist are not feeder category for promotion to the post of Assistant Reception Officer is totally misconceived.

15. Moreover, the second reason assigned by the respondent in the impugned order that since the petitioner pursued M.A. Degree through Open University (Annamali University) without pursuing Under Graduate degree, he cannot be considered for promotion to the post of Assistant Reception Officer, is also liable to be held as untenable as it is an arbitrary one, inasmuch as similarly placed persons like Mr.N.E.Chinnadurai, Mr.V.Periyakaruppan (since deceased), Mr.R.Angusamy and Mr.R.Pandian, who have obtained Post Graduate through Open University like the petitioner, were given promotion to the post of Assistant Reception Officer, hence, denying the promotion to the petitioner on the ground that he obtained M.A.degree through Open University cannot be sustained.

16. At the risk of repetition, it may be mentioned that when the post of Senior Liaisoning Assistant in Tamil Nadu House, New Delhi, was equated to the common category post of Assistant in Tamil Nadu House, New Delhi, vide G.O.Ms.No.1698, Public (General-II) Department, dated 12.12.2003, it goes without saying that the educational qualification of the petitioner has been relaxed in the feeder category, otherwise, he would not have been appointed as Senior Liaisoning Assistant, which is equivalent to the post of Assistant. Thus, the reasoning assigned by the respondent in the impugned order that he pursued MA. Degree through Open University is wholly untenable.

17. Further, it is also pertinent to take note of another vital aspect that in the place of one Mr.Soman who was working as Receptionist in the State Guest House, Chennai, while the petitioner was transferred to the said Unit as Senior Liaisoning Assistant, the said Mr.Soman was posted at Delhi Unit as Assistant Reception Officer. Therefore, in my view, when a Senior Receptionist, like Mr.Soman, can be promoted as Assistant Reception Officer, there is no impediment in promoting the petitioner who is working as Senior Liaisoning Assistant as Assistant Reception Officer, as the post of Receptionist held by the said Mr.Soman is equivalent to the post of Senior Receptionist and Senior Liaisoning Assistant prevailing in the Tamil Nadu House, New Delhi. Thus, the claim of the petitioner for promotion to the post of Assistant Reception Officer based on his feeder category post of Senior Liaisoning Assistant cannot be refused.

18. Therefore, for the reasons stated above, the impugned proceedings dated 11.09.2015 of the respondent is liable to be set aside and accordingly, the same is set aside. Consequently, the respondent is directed to consider the claim of the petitioner for promotion as Assistant Reception Officer in commensurate with his seniority and educational qualification and promote him as such in the State Guest House, Chennai, or Tamil Nadu House, New Delhi, by granting all other consequential service and monetary benefits. The respondent is directed to complete the said exercise within a period of 12 weeks from the date of receipt of a copy of this order.

19. With the above observations and directions, the writ petition stands allowed. No Costs.
rkm

s/d-
Assistant Registrar(CS-VI)

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Sub-Assistant Registrar

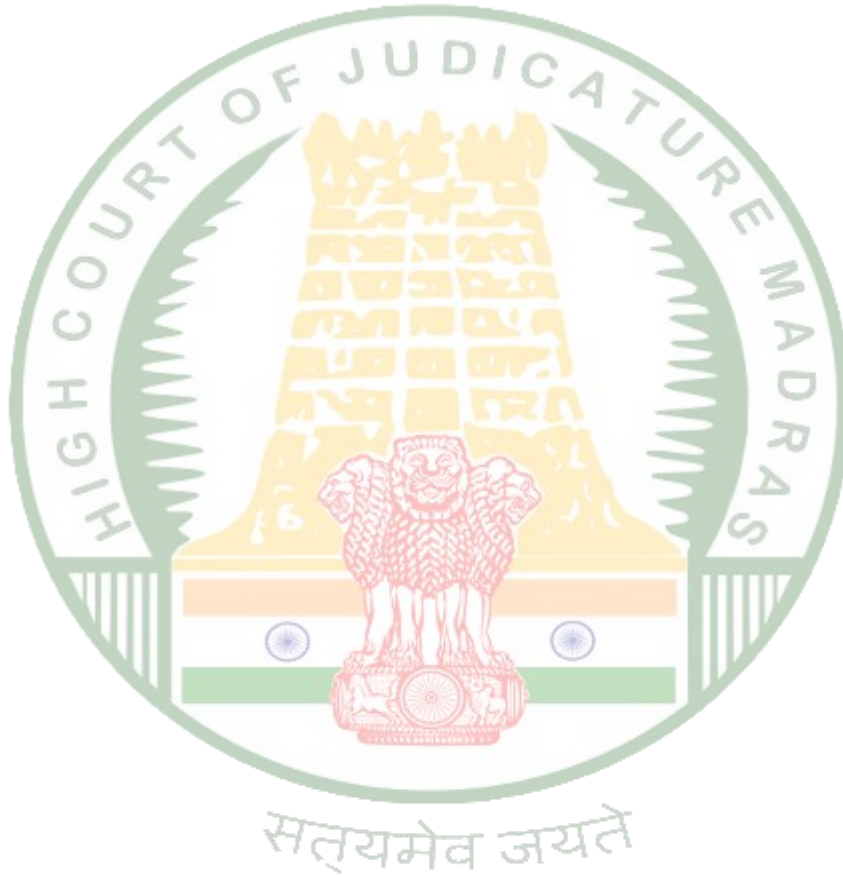
To

The Secretary to Government of Tamil Nadu,
Public (General II) Department,
Fort St. George,
Chennai - 600 009.

+ 1 cc to Govt.Pleader SR 30135

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