

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2016

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THE HONOURABLE MR. JUSTICE T.RAJA

W.P.Nos.4072 & 4125 of 2016

and WMP.Nos.3412 & 3453 of 2016

M.Ramesh Kumar ... Petitioner in WP.4072/2016

P.Karthikeyan ... Petitioner in WP.4125/2016

Vs.

1.The State of TamilNadu
Rep by its Principal Secretary to Government
Personnel and Administrative Reforms Department
Secretariat, St.George, Chennai-9.

2.The Deputy Secretary to Government
Personnel & Administrative Reforms Department
Secretariat, Fort St.George,
Chennai-9. Respondents in both the WPs.

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writs of Mandamus to direct the respondents to revise the regular panel for promotion to the post of Assistant Section Officer for the year 2012-2013 approved as per G.O.(4D).No.26 Personnel and Administrative Reforms Department dated 22.07.2015 in regard to number of vacancies notified and consequently direct the respondents to include the name of the petitioner for the regular panel for the year 2012-13 and to promote the petitioners to the post of Assistant Section officer retrospectively with all consequential service benefits and other attendant benefits by considering the representation submitted by the petitioner dated 14.10.2015 and 29.01.2016, within a time to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For respondents : Mr.A.Kumar, Spl.GP.

COMMON ORDER

With the consent of both sides, the Writ Petition is taken up for final disposal.

2. There are two writ petitions filed by Rameshkumar and Karthikeyan seeking writ of mandamus to direct the respondents to revise the regular panel for promotion to the post of Assistant Section Officer for the year 2012-2013 approved as per G.O.(4D).No.26 Personnel and Administrative Reforms Department dated 22.07.2015 in regard to number of vacancies notified and consequently direct the respondents to include the name of the petitioner for the regular panel for the year 2012-13 and to promote the petitioners to the post of Assistant Section officer retrospectively with all consequential service benefits and other attendant benefits by considering the representation of the petitioners dated 14.10.2015 and 29.01.2016.

3. Heard the learned counsel appearing for the petitioners and the learned Special Government Pleader who accepts notice on behalf of the respondents.

4. Both the petitioners were initially appointed as Personal Clerk in the Tamil Nadu Secretariat Service on 10.07.2007 and 28.06.2007 respectively. Both of them were promoted to the post of Senior Personal Clerk in the year 2010. Again, they were given temporary promotion to the post of Assistant Section Officer on 02.11.2012. Thereafter, their names were included in the panel for regular promotion for the year 2013-2014 and they were given regular promotion as Assistant Section Officer with effect from 22.07.2015.

5. In this background, the common grievance expressed by the petitioners they are governed by Special Rules for Tamil Nadu Secretariat Services apart from applicability of General Rules for Tamil Nadu State & Subordinate Services. The panel for promotion to the post of Assistant Section Officer to be prepared annually by including the names of the candidates qualified as on 1st August of every year. Since the preparation of year wise panel is mandatory as per the ratio laid down by the Hon'ble Apex Court in the judgment reported in 1997 (9) SCC 287 - Union of India Vs. N.R.Banerjee and others.

6. The respondents without following the said Rule 6 of the Tamil Nadu Secretariat Services, proceeded to fill up the same post on temporary promotion under Rule 39(a)(i) of the General Rules. As a result, they have chosen number of persons leaving behind the others, without considering their case for promotion. In this regard, the petitioners have given a representations on 14.10.2015 and 29.01.2016.

7. In reply, to the representation dated 14.10.2015, the second respondent in his letter dated 14.01.2016, stated that the representation is under process and the said reply is not properly met out the grievance of the petitioners. Once again the petitioners submitted their details representation on 29.01.2016. In the meanwhile, the respondents are proceeding to fill up the vacancies on temporary promotion for the post of Assistant Section Officer. Since, the representations of the petitioners were pending, they approached this Court by filing the present writ petition.

8. This Court, taking into consideration the limited scope of prayer sought for by the petitioner and without going into the merits of the same, directs the first respondent to consider the representations of the petitioners dated 14.10.2015 and 29.01.2016 and pass orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

9. The Writ Petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Government of TamilNadu,
Personnel and Administrative Reforms Department,
Secretariat, St. George, Chennai-9.

2. The Deputy Secretary to Government,
Personnel & Administrative Reforms Department,
Secretariat, Fort St. George,
Chennai-9.

+1cc to The Government Pleader Sr.7533

+1cc to Mr.G.Sankaran, Advocate sr.7628

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kk[co]
srg 06/04/2016