



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2016

CORAM :

THE HON'BLE DR.JUSTICE S.VIMALA

W.P. (MD) No.19418 of 2016
& W.M.P. (MD) No.13994 of 2016

A.Yasmin Nihar

... Petitioner

vs.

1. The Principal Chief Conservator of Forests,
and Head of Forest Office,
Panagal Building, Saidapet,
Chennai - 15

2. The District Forest Officer,
District Forest Office, Thanjavur Division,
Thanjavur

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned order passed by the first respondent in his proceedings Na.Ka.No.1/11147/2012, dated 17.02.2015 and to quash the same.

For Petitioner : Mr. B.Jameel Arasu

For Respondents : Mr. T.S.Mohamed Mohideen, AGP.,

ORDER

The Chief Conservator of Forests rejected the claim of the petitioner, with regard to the fixing of the petitioner's pay in the new fitment table on the ground that the petitioner joined duty after 01.06.2009. This order is under challenge in this writ petition.

2. Heard both sides. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal.

3. The petitioner is working as Steno Typist Grade III, District Forest Office, Thanjavur. The petitioner originally entered into service by participating in the Tamil Nadu Public Service Commission, Grade IV Examination, for the post of Steno Typist, Grade III and she got selected on 27.01.2008. By the communication, dated 12.11.2008, the respondents wanted the



petitioner to produce the Certificate and to furnish the details of choices of allotment of the Department. The petitioner accordingly appeared before the Office of the Public Service Commission on 01.12.2008 and produced all the original certificates.

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4. Even though the petitioner got selected on 12.11.2008 itself, due to administrative reasons on the part of the Tamil Nadu Public Service Commission, the petitioner received the communication on the allotment of the Department only on 02.06.2009, i.e., after the lapse of eight months. The petitioner is not in any way responsible for the delay. The petitioner could not get the benefit of the cut off date, i.e., 31.05.2009, because of the delay on the part of the Tamil Nadu Public Service Commission and not on account of any delay on the part of the petitioner.

5. The petitioner stood as a rank holder (second) in the General Turn Women Category. Therefore, the petitioner had seniority in the cadre of the Steno Typist Grade III. Based on seniority and ranking, the petitioner should have been given priority in the allotment of the Department, but his juniors have been given allotment in the chosen Department.

6. It is the case of the petitioner that her claim for grant of revised fitment benefit, in the light of G.O.Ms.No.340, dated 26.08.2010, has been recommended by the second respondent and contrary to the recommendations, the first respondent has chosen to reject the claim of the petitioner, which is illegal. It is beneficial to extract the relevant provisions of the said G.O., which reads thus:-

"The Government has carefully examined the above recommendations of the One Man Commission and decided to rectify the anomaly as pointed out by the One Man Commission. Accordingly, Government direct that in exercise of the powers conferred under Rule 13 of the Tamil Nadu Revised Scales of Pay Rules, 2009, relax the Rule 9 of the Tamil Nadu Revised Scales of Pay Rules, 2009, in favour of the incumbents **recruited** as Junior Assistants from among the contract Assistants / Agricultural Officers and any other similar categories of posts recruited by the Tamil Nadu Public Service Commission in the same batch **prior to 1.6.2009** and joined / appointed on a subsequent date **on or after 1.6.2009** due to administrative reasons duly allowing the fitment benefit to the individual employees concerned as a special case.

However the Government direct that the above fixation benefit shall be given notional effect from the date of appointment of the individual employees



concerned with monetary benefit from 1.8.2010."

7. It is relevant to point out that the said Government Order speaks about the recruitment prior to 01.06.2009 and joining, after appointment on or after 01.06.2009, due to administrative reasons and therefore, this Court is of the opinion that the case of the petitioner squarely falls under this category.

8. Further, it is not in dispute that the second respondent recommended the case of the petitioner. The order passed by the first respondent did not mention anything about the recommendation made by the second respondent. Moreover, the petitioner has been selected, even as early as on 12.11.2008. When it is claimed that the delay was only on account of the Department, that aspect ought to have been considered by the first respondent. But, that has not been done so.

9. In such circumstances, the impugned order passed by the first respondent is set-aside and it is remitted back to the first respondent for consideration, in the light of the claim made by the petitioner, in this writ petition, within a period of four weeks from the date of receipt of a copy of this order.

10. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(C)

/True Copy/

Sub Assistant Registrar

srk

To

1. The Principal Chief Conservator of Forests,
and Head of Forest Office,
Panagal Building, Saidapet, Chennai - 15
2. The District Forest Officer,
District Forest Office, Thanjavur Division,
Thanjavur

+1cc to Mr.B.Jameel Arasu, Advocate Sr.No. 65652

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