

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.01.2017
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
W.P.No.305/2017

S.Sekar

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Petitioner

Vs

1.The Secretary,
Government of Tamil Nadu
School Education Department,
Fort St George, Chennai-9.

2.The Joint Director of School Education,
[Personnel], College Road,
Chennai 600006.

3.The Chief Educational Officer
Tiruvannamalai District.

4.The District Educational Officer
Tiruvannamalai District.

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Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the respondents to include the name of the petitioner in the panel dated 15.03.2014 drawn for promotion to the post of Assistant at the appropriate place and to consequently confer notional promotion to the petitioner in the post of Assistant with retrospective effect by considering his representation dated 22.01.2016 within a time to be specified by this Court.

For Petitioner : Mr.P.Ganesan

For RR 1 to 4 : Mrs.Vasudha Thiagarajan

AGP [Education]

ORDER

By consent, the writ petition is taken up for final disposal. Mrs.Vasudha Thiagarajan, learned Additional Government Pleader [Edn.] accepts notice on behalf of the respondents.

2 The petitioner would state that he was appointed as Office Assistant through the Employment Exchange and was posted in the Government High School, Kannakurukkai, Tiruvannamalai District and his services were regularised by the Assistant Elementary Educational Officer, Arani and thereby, the

petitioner became full member of the Government service. The petitioner was promoted to the post of Record Clerk on 05.11.2003 and was posted in the office of the Assistant Elementary Educational Officer, Chetpet, Tiruvannamalai and got further promotion as Junior Assistant on 29.08.2011 and joined duty on 08.09.2011 in the promoted post. The petitioner was put on probation for a period of two years from the date of promotion in the cadre of Junior Assistant and as per rules, for completing the probation in the cadre of Junior Assistant, the concerned official has to pass District Office Manual Test and has to undergo training at Bhavanisagar Training Institute, without which, the individual will not be considered to the post of Assistant. The petitioner claims that he has passed the District Office Manual Test while working as Office Assistant during May 1994 itself and the only requirement is to undergo training in Bhavanisagar Institute. The petitioner would aver that as per G.O.Ms.No.184, Personnel and Administrative Reforms Department dated 15.10.1999, persons who had crossed 53 years need not undergo such training and according to the petitioner when he was promoted to the post of Junior Assistant, he was 53 years and 8 months and as such, he need not undergo the training. The grievance expressed by the petitioner is that though he has completed his probation in the cadre of Junior Assistant, the same has not been declared within two years from the date of joining and he would further aver that no written order has been passed for either extending the probationary period or for not declaring the probation. It is deemed that the probation of the Government servant is declared in terms of FR 26. The petitioner would also aver that on account of non-declaration of his probation, his name was not included in the successive promotion panel and as such, he has lost his chance to the promotion to the post of Assistant and subsequently, his probation was declared with retrospective effect from 07.09.2013 vide order dated 14.04.2015. The grievance expressed by the petitioner is that but for the belated declaration of probation, his name would have been included in the panel for the promotion to the post of Assistant. In this regard, the petitioner has also submitted representations dated 25.08.2015 and 22.01.2016 respectively, seeking notional promotion to the post of Assistant by including his name in the appropriate place in the panel drawn on 15.03.2014 and since no orders have been passed, the petitioner came forward to file the present writ petition.

3 Heard the submissions of the learned counsel for the petitioner and Mrs.Vasudha Thiagarajan, learned Additional Government Pleader [Edn.] appearing for the respondents.

4 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances

and without going into the merits of the claim projected by the petitioner, directs the 2nd respondent to consider and dispose of the petitioner's representations dated 25.08.2015 and 22.01.2016 respectively, on merits and in accordance with law , after putting on notice, the person/s concerned and pass orders within a period of ten weeks from the date of a receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the person/s concerned.

5 The writ petition stands disposed of with the above direction. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

AP

To

- 1.The Secretary,
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+1 cc to Mr.P.Ganesan Advocate sr 1248

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