

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.A.No.1665 of 2017
and
C.M.P.Nos.21556 and 21557 of 2017

- 1 The Principal Secretary to Government
Finance Department Secretariat
Chennai-600 009
 - 2 The Principal Secretary to Government
Personnel and Administrative Reforms
Department Secretariat
Chennai-600 009
 - 3 The Principal Secretary /Commissioner
of Treasuries and Accounts
Panagal Building Saidapet Chennai-600 015
...Appellants/Respondent
- Versus
- M.Ganesan
...Respondent/Petitioner

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 15.4.2016 passed in W.P.No.40374 of 2015 on the file of this court.

W.P.No.40374 of 2015:

Petition under Article 226 of the constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records passed by the 3rd respondent viz The Commissioner of Treasuries and Accounts panagal Building Chennai-15 dated 27.06.2012 in Rc. No.22327/2013/A2 quash the same and consequently direct the respondents to include the petitioners name in the current panel of Accounts Officer for the year 2015-2016 under preparation and also promote the petitioner as Accounts Officer in the Treasuries and Accounts Department.

For appellants : Mr.R.Prathapkumar, AGP
For respondent : Mr.L.Chandrakumar

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ appeal has been filed by the State challenging the order passed by the learned Single Judge allowing the writ petition which sought for a mandamus to call for the records passed by the third respondent therein dated 27.6.2013 in Rc.No.22327/2013/A2, quash the same and consequently direct the respondents therein to include the writ petitioner's name in the current panel of Accounts Officer for the year 2015-2016 under preparation and also promote the writ petitioner as Account Officer in the Treasuries and Accounts Department.

3. It appears that the respondent herein, who was working as Assistant Accounts Officer, was denied the promotion to the post of Accounts Officer by non-inclusion of his name in the panels drawn for the years 2012-2013, 2013-2014 and 2014-2015 on the ground that he had passed the B.Com Degree after undergoing the two year Foundation Course without passing the S.S.L.C. and +2 and hence, he does not satisfy the conditions laid down in G.O.Ms.No.107, Personnel and Administrative Reforms Department dated 18.8.2009 for being considered for promotion to the higher post.

4. It appears that the learned Single Judge, having clarified the position passed the order in the writ petition, operative portion of which reads as under:-

"A mere reading of the above would show that the respondents have proceeded as though the petitioner has obtained the B.Com., degree after undergoing the two year Foundation Course without passing the S.S.L.C., which is factually incorrect. As highlighted above, at the cost of repetition, it may be mentioned that the petitioner has passed the S.S.L.C., in the year 1976 under the old pattern and thereafter had undergone the two year Foundation Course, for which also he was issued with the Open University Foundation Course Certificate during April, 1987 and thereafter has obtained the B.Com., degree during December, 2009. Moreover, when a similar and identical issue has also been decided by this court in Mathavan Pillai's case cited supra, the reason assigned by the respondents that the petitioner has not got the requisite qualification for promotion to the post of Accounts Officer is wholly untenable. In the light of the same, the impugned order is set aside and the writ petition stands allowed. ..."

5. In a similar situation, this Bench, in Writ Appeal No.52

of 2015, by order dated 21.9.2017 has held thus:-

"10. Therefore, we are of the considered view that the finding of the learned single Judge cannot be interference with. It appears that though the new educational pattern has been adopted in the State of Tamil Nadu as early as in 1978. Even after passing of 38 years, the sub-rule was not amended taking note of the new pattern adopted in this State and by passage of time, the Rule has become particularly redundant, since of late, it has become obsolete and taking advantage of the obsolete pattern of the Rules, the appellants-State seems to have granted exemption and promotion to Ulaganathan, Ganesan, etc. While it comes to the case of the respondent/writ petitioner, it has been put against him and hence, this Court finds that in view of the non-amendment of the sub-rules even after the adoption of the new pattern in 10+2+3 which has given room to favour the favoured few and hence, while we concur with the findings of the learned single Judge regarding the educational qualification, fit for promotion of the writ petitioner, we also observe that it is for the appellants-Department to make necessary amendment in the above said Rules at the earliest and the Law Secretary of the State is hereby required to look into the redundant Rules have been duly corrected and updated due to change in education pattern adopted, for nearly 4 decades ago."

6. In view of the above decision, we are of the view that there is no scope for interference in the order passed by the learned Single Judge in the case on hand. However, since the respondent is said to have retired in May 2017 itself, he would be entitled to notional benefits. The appellants are directed to comply with the order passed by the learned Single Judge within a period of three months from the date of receipt of copy of this judgment. The writ appeal is dismissed with the above observation. No costs. The connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

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Sub-Assistant Registrar

ssk.

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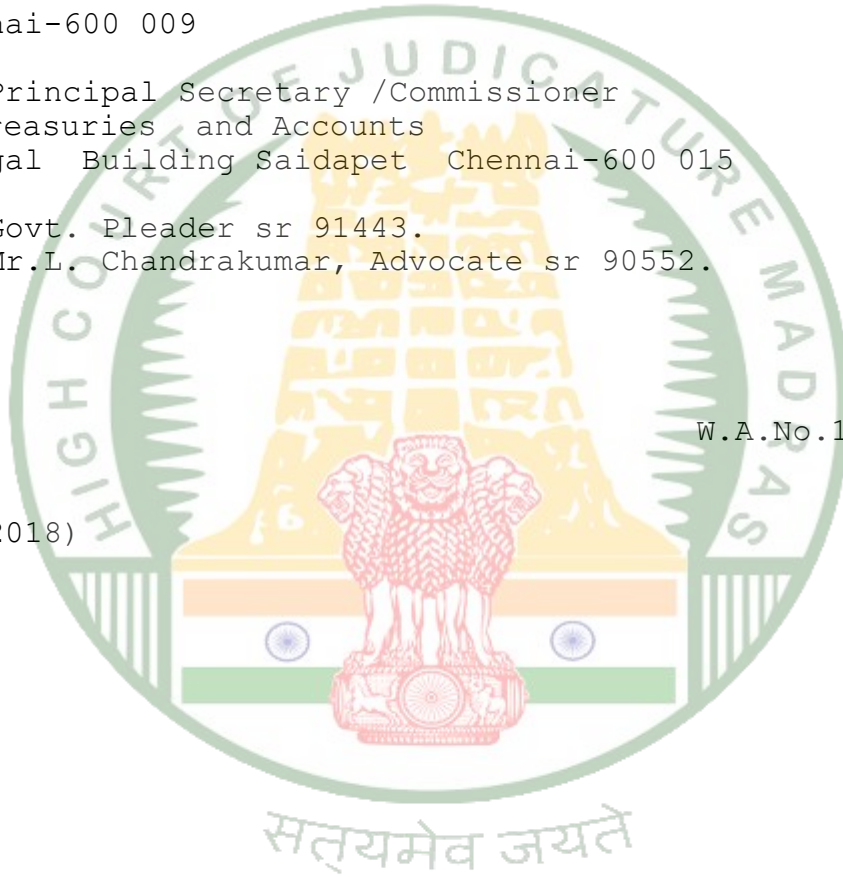
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+1 CC to Govt. Pleader sr 91443.

+1 CC to Mr.L. Chandrakumar, Advocate sr 90552.

W.A.No.1665 of 2017

KJ(CO)
SP(02/02/2018)



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