

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2017

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.31452 of 2014

and

M.P.No.1 of 2014

1.S.Ramalingam
2.R.Suresh
3.K.Shanthi
4.M.S.Karunai Prakash
5.P.Pandian
6.K.Veeraputhiran
7.V.Loganayaki ... Petitioners

Vs.

1.The Government of Tamil Nadu
rep. By its Principal Secretary,
Home (Transport IV) Department,
Fort St. George, Chennai - 9.
2.The Transport Commissioner,
Chepauk, Chennai - 5. ... Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the respondents herein to forthwith promote the petitioners as Superintendent in the panel year of 2014-2015 after relaxing undergoing 2 years norms in State Transport Authority/State Transport Appellate Tribunal/Office of the Deputy Transport Commissioner/Joint Transport Commissioner/Assistant Accounts Officer as on the crucial date as in the case of other 31 Assistants in G.O.Ms.No.766 Home (Transport IV) Department dated 13.10.2014 with all monetary and other attendant benefits on part with other 31 Assistants.

For Petitioners .. Mr.K.Raja

For Respondents .. Mr.T.M.Pappiah,
Spl. Govt. Pleader

ORDER

The petitioners have approached this Court seeking the following relief:

"to issue a writ of mandamus directing the respondents herein to forthwith promote the petitioners as Superintendent in the panel year of 2014-2015 after relaxing undergoing 2 years norms in State Transport Authority/State Transport Appellate Tribunal/Office of the Deputy Transport Commissioner/Joint Transport Commissioner/Assistant Accounts Officer as on the crucial date as in the case of other 31 Assistants in G.O.Ms.No.766 Home (Transport IV) Department dated 13.10.2014 with all monetary and other attendant benefits on par with other 31 Assistants."

2.The case of the petitioners is that they were initially appointed as Junior Assistants and further promoted as Assistants under the control of the second respondent. According to the Government Order in G.O.Ms.No.572 Home (Transport 4) Department dated 01.06.2000, those Assistants who completed one year service as Accountant in any one of the Regional Transport Offices in Transport Department and two years service in State Transport Authority/State Transport Appellate Tribunal/Office of the Deputy Transport Commissioner/Joint Transport Commissioner/Assistant Accounts Officer are eligible to be promoted as Superintendent. According to the petitioners, the crucial date of drawing up of panel for promotion from the post of Assistant to the post of Superintendent is 15th March every panel year. As far as the claim of the present petitioners, the panel year was 2014-2015 and 15th March 2014 was the crucial date. According to the petitioners, due to administrative exigencies and necessity, undergoing two years norms in State Transport Authority/State Transport Appellate Tribunal/Office of the Deputy Transport Commissioner/Joint Transport Commissioner/Assistant Accounts Officer as on the crucial date was relaxed in every panel year. Similarly, for the said year also, the abovesaid norm was relaxed vide G.O.Ms.No.766 Home (Transport IV) Department dated 13.10.2014.

3.Mr.K.Raja, learned counsel appearing for the petitioners would draw this Court's attention to the fact that the number of total existing vacancies which are notified for drawing up of panel in the year 2014-2015 were 59. Number of Assistants who are eligible and who require relaxation were 38 in number and the petitioners herein would come within the 38 numbers. However, ultimately the Government granted relaxation only for 31 Assistants, leaving out the seven petitioners herein without any valid reasons.

4. According to the learned counsel appearing for the petitioners, the existing vacancies were 59 in number and there was no impediment on the part of the Government for restricting the regularization only in respect of 31 vacancies for the purpose of appointment to the post of Superintendent. According to him, when relaxation is given to one set of employees, the same relaxation ought to be extended to another set of similarly placed employees and therefore, the action in not granting relaxation to the petitioners is per se discriminatory, arbitrary and violative of Articles 14 and 16 of the Constitution of India.

5. Learned counsel for the petitioner, at the time of arguments, would also draw the attention of this Court to G.O.Ms.No.80 Home (Transport IV) Department dated 20.01.2017 in and by which the Government granted similar relaxation for promotion to the post of Superintendent in respect of the same panel year 2014-2015. In the said relaxation order, 15 Assistants are covered in the said year. Therefore, he would submit that denial of relaxation to the petitioners alone is completely unjustified and cannot stand the test of judicial scrutiny.

6. Upon notice, Mr.T.M.Pappiah, learned Special Government Pleader entered appearance on behalf of the respondents and filed counter, in and by which, they seek to resist the claim of the petitioners, stating that as per certain instructions issued by the Personnel and Administrative Reforms Department only the actual vacancies in the particular panel year was considered and not the total existing carry forward vacancies.

7. This Court considered the said submission made on behalf of the respondents and found that the said submission is preposterous and cannot be countenanced in law in view of the basic fact that the number of estimated vacancies which were notified were 59 and therefore the relaxation which was originally granted to 31 members cannot be restricted for 31 vacancies alone and leaving out the claim of the petitioners herein seeking parity in treatment. Such action on the part of the Government cannot be appreciated as the same suffers from blatant discrimination and also violating the equality doctrine enshrined under the Constitution.

8.In the light of the above discussion and the narrative, there shall be a direction to the respondents to grant relaxation and promote the petitioners as Superintendents in the panel 2014-2015 as done in the case of 31 other similarly placed assistants vide G.O.Ms.No.766 Home (Transport IV) Department dated 13.10.2014 with all monetary and other attendant benefits on par with 31 Assistants who are promoted as Superintendents. The said direction shall be complied with by the respondents within a period of two months from the date of receipt of a copy of this order.

9.The writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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To

1.The Principal Secretary to Govt.,
Home (Transport IV) Department,
Fort St. George, Chennai - 9.

2.The Transport Commissioner,
Chepauk, Chennai - 5.

+1 CC to Mr.K. Raja, Advocate sr 60696.

+1 CC to The Govt. Pleader sr 61629.

सत्यमेव जयते

W.P.No.31452 of 2014

RJ(CO)
sp(19/09/2017)

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