

In the High Court of Judicature at Madras

Dated: 21.3.2017

Coram :

THE HONOURABLE MR.JUSTICE NOOTY. RAMAMOHANA RAO
AND
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.27895 of 2014 & MP.Nos.1 and 2 of 2014

- 1.M.Govindaraju, Steno Typist,
Spl. District Court/MCOP Tribunal
Salem
 - 2.K.Gowri, Typist, III Additional District
Court, Salem
 - 3.P.Kousalya, Typist, Principal District
Court, Salem
 - 4.G.Valarmathi, Typist, Court of Judicial
Magistrate No.5, Salem
 - 5.S.Prema, Steno Typist, Special Sub.
Court No.1/MCOP Tribunal, Salem
 - 6.A.Latha, Steno Typist, Court of
Judicial Magistrate No.6, Salem
 - 7.S.Udhayakumar, Typist, District
Munsif Court, Sankagiri
 - 8.K.Kavitha, Steno-Typist, Additional
Mahila Court, Salem
- ...Petitioners

Vs

- 1.The State of Tamilnadu, rep. by its
Secretary, Home (Courts) Department,
Fort St. George, Chennai-9.
- 2.The Registrar General, High Court
of Madras Chennai-600 104.
- 3.The Principal District & Sessions
Judge, District Combined Court
Building, Hasthampatti, Salem-7.

4.The Assistant Director, District
Employment Office, No.16, Chinnaiah
Pillai Street, North Maravaneri Extension
Salem-7.

5.Tamilnadu Public Service Commission,
rep. by its Chairman, Frazer Bridge
Road, VOC Nagar, Park Town
Chennai-3.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to absorb and accommodate the petitioners permanently in any one of the posts of Readers, Examiners, Senior Bailiff, Junior Bailiff, Copyists, Typists and Steno-Typists in various courts in Salem District in the Tamilnadu Judicial Ministerial Service according to their educational qualification by regularizing the present service of the petitioners in all aspects without ousting them from service in line of the order in R.O.C.No.588/-A/2006/C3 dated 29.3.2006 on the file of 2nd respondent and by taking into consideration of the order dated 22.11.2012 passed in W.P.No.30871 of 2012 within a reasonable time to be fixed by this Court.

For Petitioners	:	Mr.R.Neelakandan
For Respondents 1 & 4	:	Mr.P.S.Shivashanmuga Sundaram, SGP,For RR1 & 4
For Respondents 2 & 3	:	Mr.P.K.Rajagopal
For Respondent-5	:	Mr.C.N.G.Niraimathi

ORDER OF THE COURT WAS MADE BY NOOTY.RAMAMOHANA RAO, J

Heard the learned counsel for the writ petitioners.

2. These are all unfortunate cases instituted by persons temporarily working with some hope and desire to get recruited permanently to the services under the Government hold. However hard the facts might be and however much we sympathize with their cause, we have to restrain ourselves from any extravagant indulgence with the legal principles.

3. The facts lie in a narrow campus. Vacancies to various posts included in the Judicial Ministerial Services, to which direct recruitment is provided as a source, have been notified to the Tamil Nadu Public Service Commission, which would advertise, conduct examination/selection process, select suitable candidates and allot the selected candidates for appointment in the Judicial Ministerial Services. Since the said

process is a time consuming one and large number of vacancies were found lying in the Courts and consequently the Court's functioning was adversely impacted, a resort was made to make temporary recruitment by inviting through respective District Employment Exchanges, which sponsored the suitable candidates existing on its rolls. After a nominal selection process was indulged in, the writ petitioners were found to be the successful candidates and hence, they were appointed on a temporary basis, subject to replacement by those candidates selected by the Tamil Nadu Public Service Commission.

4. The writ petitioners completed more than three years of service and if the regular candidates selected by the Tamil Nadu Public Service Commission arrive, apprehending any orders ousting the petitioners from out of their temporary employment, the petitioners have come up with the above writ petition. Unfortunately for the petitioners, it is inferable that either they have not responded to the recruitment notifications subsequently taken out by the Tamil Nadu Public Service Commission or in case they have responded, they were not successful in securing selection.

5. At the time of filing the writ petition, M.P.Nos.1 and 2 of 2014 have been moved seeking (i) to grant an interim injunction restraining respondents 1 to 3 from ousting the petitioners from their respective posts and (ii) to grant interim direction directing respondents 1 to 3 to reserve 8 posts in the categories of Readers, Examiners, Copyists, Typists and Steno-Typists in the Subordinate Courts in Salem District. This Court, by order dated 20.10.2014, directed the respondents to maintain status quo and it is, therefore, clear that the petitioners are still continuing in service. As on today, the interim order is still in force and it is never sought to be vacated.

6. It is true that having rendered more than three years of service and that too, satisfactorily, if the petitioners get out of employment on the arrival of the newly recruited candidates by the Tamil Nadu Public Service Commission, it would cause some amount of heartburn and hardship. That was no reason for us to bend the legal principles backwards and order for consideration of the cases of the writ petitioners exclusively for purposes of filling up of existing vacancies such as Examiner, Reader, Senior Bailiff, Junior Bailiff, Record Keeper, Shroff, Assistant Shroff, Record Clerk and Xerox Operator, lying vacant as of now in the Courts in Salem District.

7. In the given facts and circumstances, we consider that equities can be stretched a little in favour of the writ petitioners by issuing the following directions:-

As and when any regular recruitment is undertaken by the State Government and/or in particular by the Principal District Judges/Court of Small Causes/ High Court, as the case may be, the cases of the writ petitioners may be considered duly relaxing the upper age limit to some extent, rounding it off to the nearest whole number, such as 3 or 4 as the case may be, corresponding to the length of service put in by the respective petitioners.

8. We only hope that the writ petitioners will not lose hope and would trust that their hard work would pay the necessary dividend at some time or the other.

9. With this, the writ petition stands disposed of. No costs. Consequently, the above MPs are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

rs
To

1.The Secretary to Govrnment of Tamilnadu, Home (Courts) Department, Fort St. George, Chennai-9.

2.The Registrar General, High Court of Madras Chennai-600 104.

3.The Principal District & Sessions Judge, District Combined Court Building, Hasthampatti, Salem-7.

4.The Assistant Director, District Employment Office, No.16, Chinnaiah Pillai Street, North Maravaneri Extension, Salem-7.

5.The Chairman, Tamilnadu Public Service Commission, Frazer Bridge Road, VOC Nagar, Park Town, Chennai-3.

+1cc to Mr.R.Neelakandan,Advocate sr.17569

+1cc to Government Pleader sr.17726

WP.No.27895 of 2014 &
MP.Nos.1 and 2 of 2014

sks (co)
ss (7/4/2017)