

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.04.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

WP.No.25797/2013 & MP.Nos.1&2/2013

Tmt.S.Chandra

.. Petitioner

Versus

1. The Secretary to Government
Personnel & Administrative Reforms
Department, Secretariat, Fort St George
Chennai 600 009.

2. The Secretary to Government
Energy Department
Secretariat,
Fort St George, Chennai 600 009.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to the impugned order of the 1st respondent issued in Letter No.53519/Q/2010-13 P&AR Department dated 22.06.2012 and also the consequential orders passed by the 1st respondent in Letter No.25108/Q/2012-1 P&AR Department, dated 21.08.2012 and in letter No.46714/Q2/2012-1, P&AR Department, 18.02.2013 and quash the same and consequently, direct the 1st respondent to consider the name of the petitioner in the panel prepared as on 01.09.2010 for the year 2011-12 to promote him as Under Secretary to Government on par with his junior with all monetary benefits.

***Prayer amended as per the order dated 26.04.2017 in WMP.No.11591/2017 in WP.No.25797/2013.

For Petitioner : Mr.R.Thiagarajan, SC for
Mr.T.Ranganathan
For Respondents : Mr.K.Venkataramani, AAG
assisted by
Mr.K.Dhananjayan, Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner was appointed as a Typist in the Secretariat Service and she was considered for the post of Assistant Section Officer Panel approved on 01.08.1994 and was promoted as Assistant Section Officer on 15.12.1994 and her services have also been regularised from the said date and thereafter, she got promotion as Section Officer on 07.12.2007. It is the claim of the petitioner that she is eligible for further promotion as Under Secretary to the Government in the panel in the year 2011-12 prepared as on 01.09.2010 and however, while the 1st respondent drafting the panel, did not include her name in G.O.[D] No.130, P&AR Department, dated 22.06.2012. It is the specific case of the petitioner that she was well within the zone of consideration in the panel for the year 2011-12 prepared as on 01.09.2010 and her name was also considered by the Departmental Promotion Committee [DPC]. On account of the introduction of new condition, namely, degree qualification in respect of the panel for the year 2011-12, which is not prescribed under the Special Rules as on the date of approval by the Departmental Promotion Committee on 01.06.2012. The petitioner, in this regard, submitted representations for inclusion of her name in the panel of Under Secretary to the Government for the year 2011-12 prepared as on 01.09.2010 and it was rejected by the 1st respondent on 21.08.2012 and 18.02.2013 respectively and making a challenge to the same, the petitioner has filed the writ petition.

3 Mr.R.Thiagarajan, learned Senior Counsel assisted by Mr.T.Ranganathan, learned counsel appearing for the petitioner would submit that one Mr.S.Mathavan Pillai, whose candidature for the post of Under Secretary for the panel year 2010-11 came to be rejected citing the very same reasons, filed WP.No.14658/2011 and the said writ petition was allowed on 30.07.2012, holding that as per G.O.Ms.No.92, P&AR Department dated 20.06.2012, prescription of Bachelor's Degree from regular University for 10 + 2 years studied from school level, with retrospective effect, would not be an impediment for considering the name of the petitioner therein for inclusion in the panel for the year 2010-11 for the post of Under Secretary. It is further submitted by the learned Senior Counsel appearing for the petitioner that the said order was put to challenge by the Secretary to Government, Personnel and Administrative Reforms Department, Chennai-9, in WA.No.1372/2013 and it was dismissed on 12.07.2013 and a Special Leave Petition in SLP [C] No.14718/2014 filed by the said appellant before the Hon'ble Supreme Court of India, was also dismissed on 12.09.2014 and

thereafter, the 1st respondent herein - the Secretary, Personnel and Administrative Department of Government of Tamil Nadu, had implemented the order in respect of Thiru S.Mathava Pillai, vide G.O.Ms.No.102 dated 14.08.2013. It is further submission of the learned Senior Counsel that Tvl.S.M.Murthy and K.R.Baskaran, who are also similarly placed like that of S.Mathava Pillai, had filed WP.Nos.10509/2014 and 25895/2015 respectively and a Single Bench of this Court [M.SATHYANARAYANAN, J.,] has allowed the said writ petitions, vide order dated 20.08.2015 by following the judgment dated 12.07.2013 made in WA.No.1372/2013 and those orders were also implemented by the 1st respondent vide G.O.Ms.Nos.115 and 116 dated 30.11.2015 and since the petitioner is similarly placed like that of the petitioners therein, there cannot be any impediment in allowing this writ petition as prayed for and prays for appropriate orders.

4 Per contra, Mr.K.Venkataramani, learned Additional Advocate General assisted by Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit as well as to the typed set of documents and would submit that since the petitioner did not fulfill the eligible qualification, her candidature for promotion to the post of Under Secretary for the panel year 2011-12 have been rightly overlooked and prays for dismissal of this writ petition.

5 This Court paid its best attention to the rival submissions and also perused the materials placed before it.

6 As rightly contended by Mr.R.Thiagarajan, learned Senior Counsel appearing for the petitioner, the matter in issue is squarely covered by the order dated 30.07.2012 made in WP.No.14658/2011, which has been upheld by a Division Bench of this Court vide judgment dated 12.07.2013 in WA.No.1372/2013 [cited supra] and the said judgment was also put to challenge by the 1st respondent by filing SLP [C] No. No.14718/2014 and it was also dismissed on 12.09.2014 confirming the order and the said order has also been implemented by the 1st respondent vide G.O.Ms.No.102 dated 14.08.2013 and persons similarly placed like that of the petitioner, viz., Tvl.S.M.Murthy and K.R.Baskaran, had filed WP.Nos.25895/2015 and 10509/2014 and following the above said judgment, the writ petitions were allowed and orders were also been complied / implemented by the 1st respondent vide G.O.Ms.Nos.115 & 116 dated 30.11.2015. The 1st respondent vide G.O. [D] No.202, P&AR Department, dated 30.11.2015, promoted Tvl.K.R.Baskaran and S.M.Murthy as Under Secretaries to Government and posted them in the Public Works Department and School Education Department respectively. In the considered opinion of the Court, the petitioner is similarly placed like that of the above said officials.

7 In the result, the writ petition is allowed and the impugned order passed by the 1st respondent dated 22.06.2012 and the consequential orders dated 21.08.2012 and 18.02.2013 is hereby quashed. The 1st respondent is directed to consider the name of the petitioner in the panel prepared for the year 2011-12 and promote her as the Under Secretary to the Government on par with her juniors with all monetary and other consequential benefits and shall pass appropriate orders on or before 22.05.2017 and communicate the decision taken, to the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

AP

To

1. The Secretary to Government
Personnel & Administrative Reforms
Department, Secretariat, Fort St George
Chennai 600 009.
2. The Secretary to Government,
Energy Department,
Secretariat,
Fort St George, Chennai 600 009.

+1cc to the Government Pleader Sr. 26471

+1cc to Mr.T. Ranganathan, Advocate Sr. 25600

WP.No.25797/2013

PVS (CO)
VR(4/5/2017)

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