

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5390 of 2016

P.Sowndari

... Petitioner

Vs.

1. The Secretary to Government,
Finance (OP-I) Department,
Fort St. George, Chennai-9.
2. The Secretary to Government,
Personnel & Administrative Reforms
Department, Fort St. George, Chennai-9. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the claim of the petitioner by relaxing Rule 14 of the Tamil Nadu Secretariat Service Rules prescribing 5 years of service in the cadre of Senior Typist for promotion to the post of Assistant Section Officer in the Finance Department and further direct the respondents to include the name of the petitioner in the panel of the Assistant Section Officer for the year 2015-16 published in G.O.(D)No.241 Finance (OP-I) Department dated 21.09.2015 and promote her as Assistant Section Officer and grant her all consequential service and monetary benefits.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.K.Dhananjayan for R1 & R2
Special Government Pleader

O R D E R

Granting relaxation of rules in favour of the Government employees is a concession extended under the rules. The power

of relaxation may be exercised by the competent authorities under the rules. The constitutional Courts cannot grant relaxation of qualification prescribed under the rules. The power of relaxation is an exception and it can never be followed as a rule even by the competent authority. The rule of relaxation is to be exercised cautiously so as to avoid discrimination and other inconsistencies.

2. The very object of rule of relaxation provided under the rule is to mitigate some warranting circumstances and to avoid inconsistencies and discrimination amongst the employees in the matters of appointment, promotion and for other service benefits. In other words, the rule of relaxation can be exercised by the Government in order to avoid discrepancies amongst the employees. The competent authorities can never exercise the power of relaxation in a routine manner so as to grant benefits in favour of some Government employees. In recent days, the power of rule of relaxation is exercised in a capricious manner so as to extend favour to some employees. This Court is of the clear opinion that all the competent authorities are to be cautious, while exercising the rule of relaxation prescribed under the rules. The said rule can be exercised only on exceptional circumstances to redress the genuine grievances of the employee and can never be granted in a routine manner so as to grant certain service benefits in favour of few individuals. This being the principles to be adopted for the purpose of granting relaxation in favour of employees in respect of age, qualification etc., this Court cannot consider the claim of the writ petitioner for granting of relaxation in her favour. However, it is for the respondents to consider the same in accordance with merits of the case and the rule requires a judicious exercise of power of relaxation so as to avoid discrimination.

3. In recent days, the power of relaxation is used by the competent authorities in order to favour few employees by creating wrong precedent thereto in the Department. Based on such allegation, many other employees are also claiming relaxation as a matter of right. Therefore, the rule of relaxation cannot be exercised in this manner and it should be exercised only under exceptional circumstances.

4. The very prayer sought for in this writ petition for grant of relaxation cannot be directly granted by this Court under Article 226 of the Constitution of India, and it is for the respondents to consider the merits and demerits of the case by verifying the service records to mitigate the circumstances warranting such an order of relaxation. In this view of the matter, no further adjudication on the grounds in this writ

petition is to be undertaken. Accordingly, this writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Secretary to Government,
Finance (OP-I) Department,
Fort St. George, Chennai-9.
2. The Secretary to Government,
Personnel & Administrative Reforms
Department, Fort St. George, Chennai-9.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.61860

+1cc to the Government Pleader, S.R.No.62853

W.P.No.5390 of 2016

RSI (CO)
RMP (09/11/17)

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