

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.716 of 2018
and C.M.P.No.6906 of 2018

1. Government of Tamil Nadu,
represented by Special Secretary to Government,
Finance (T&A-II) Department,
Chennai - 600 009.
 2. The Director of Treasuries and Accounts
Chennai - 600 015.
- Appellants

-vs-

Mohammad Abdul Saeed Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.7148 of 2011 dated 21.09.2017.

PRAYER IN W.P No.7148 of 2011:

Petition Under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the first respondent relating to orders in (1) G.O.(2D) No.158 Finance (T&A-II) Department, dated 30.12.2010 (2) Government Letter No.23750/TA-II/2010 Finance (T&A-II) Department, dated 18.6.2010 and (3) G.O.Ms.No.355, Finance (T & A.II) Department, dated 8.6.2006 to quash the same to the limited extent of revision of effective dated of regularization as 23.12.2002 and to issue consequential directions to the respondents to restore G.O.Ms.No.420, Finance (T&A-II) Department dated 3.8.2004 regularise the service of the petitioner in the post of Junior Assistant with effect from 17.06.1996 forenoon with all consequential benefits.

For Appellants : Mr.N.Manikandan, G.A.

For Respondent : Mr.M.Sedu & P.Kumaran
for M/s.Ravi

J U D G M E N T

[Judgment of the Court was delivered by R.SUBRAMANIAN,J.]

Challenge in this intra Court appeal is to the order of the learned single Judge dated 21.09.2017 made in W.P.No.7148 of 2011.

2. The Writ Petition was filed by the respondent challenging the order of the Government in G.O.Ms.No.355 dated 08.06.2006, in and by which, the Government re-fixed the date of regularisation of the respondent from 11.06.1996 to 23.12.2002.

3. The learned single Judge found that the Government had relaxed the requirement of language test in the case of the respondent when he was appointed on compassionate ground and while regularising his service from 11.06.1996 onwards by G.O.Ms.No.420 dated 03.08.2004. Having exercised the power of relaxation which the Government is entitled to do, the Government cannot withdraw the benefit of said relaxation and re-fix the date of regularisation by a subsequent Government Order. Therefore, the learned single Judge allowed the Writ Petition by quashing the Government order dated 08.06.2006. Aggrieved, the Government is on appeal before us.

4. Admittedly, the Government has power to relax the requirement of any qualification for the purpose of regularisation. Having exercised the said power and having regularised the services of the respondent with effect from 11.06.1996 vide G.O.Ms.No.420 dated 03.08.2004, we do not think that the Government can go back on it and recall the regularisation which has adverse impact on the services of the respondent. We are therefore of the opinion that the learned single Judge was right in allowing the Writ Petition. We do not see any ground to interfere with the order of the learned single Judge.

5. The Writ Appeal fails and the same is dismissed. However, there is no order as to costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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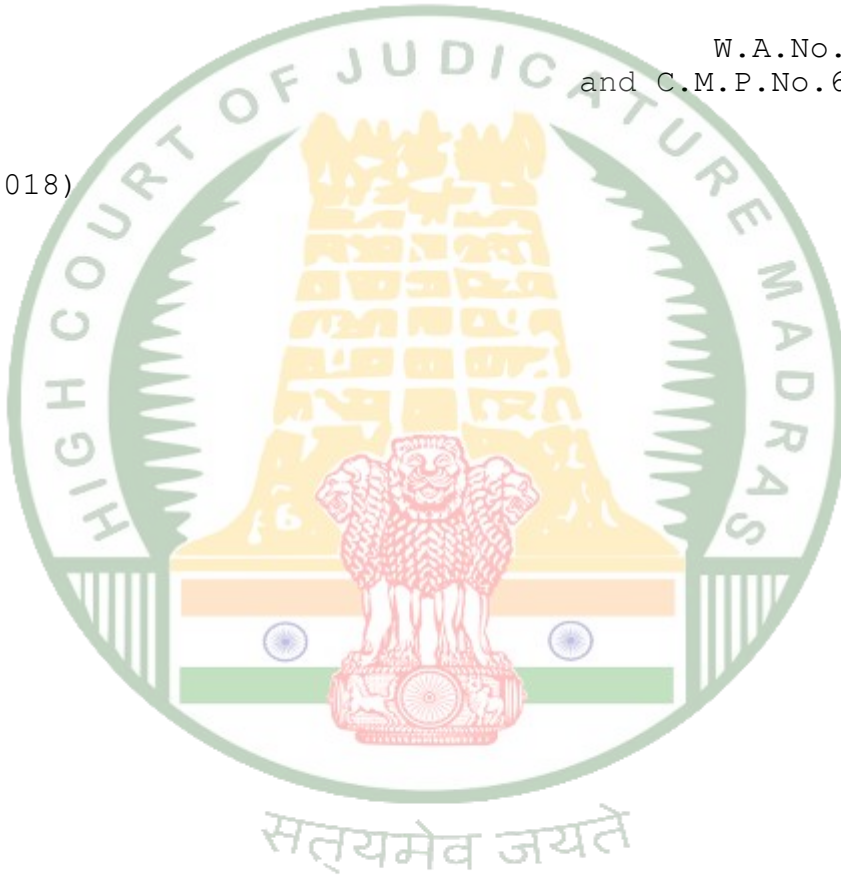
TO

1. The Special Secretary to Government,
Finance (T&A-II) Department,
Chennai - 600 009.
2. The Director of Treasuries and Accounts
Chennai - 600 015.

+lcc to Mr.M.RAVI, Advocate, S.R.No.49922
+lcc to the Government Pleader, S.R.No. 49971

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BR(CO)
TR(13/08/2018)



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