

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.04.2018

Coram

THE HON'BLE MR.JUSTICE M.VENUGOPAL
&
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No.28113 of 2017

C.Meenachi

... Petitioner

... Vs ...

1. The Principal Secretary,
Home Department,
Government of Tamil Nadu,
Chief Secretariat,
Fort St. George,
Chennai - 600 009.
2. The Registrar General,
Madras High Court,
Chennai - 600 104.
3. The Principal District Judge,
Salem District,
Combined Court Building,
Yercaud Main Road,
Salem - 636 007.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to regularize the petitioner's service as Junior Assistant by considering the petitioner's representation dated 03.10.2017, by taking into account of the re-submission of proposal for ratification of the petitioner's appointment and regularization of her service, sent by the third respondent to the second respondent, within a reasonable time to be fixed by this Court.

For Petitioner : Mr.R.Neelakandan
For R-1 : Mr.Rajendra Prasad,
Additional Government Pleader
For RR-2 & 3 : Mr.M.Santhana Raman

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ORDER

(Order of the Court was made by M.VENUGOPAL, J.)

Heard the Learned Counsel appearing for the Petitioner, Learned Additional Government Pleader appearing for the Respondent No.1 and the Learned Counsel appearing for Respondent Nos.2 and 3.

2. The Petitioner has filed the present writ petition seeking for issuance of Writ of Mandamus by this Court, in directing the Respondents to regularize her service as Junior Assistant by considering her representation dated 03.10.2017, by taking into account of the re-submission of proposal for ratification of her appointment and regularization of her service, sent by the Third Respondent to the Second Respondent, within a reasonable time to be fixed by this Court.

3. The stand of the Petitioner is that her father viz., A.Chandrasekar died out of harness during service on 23.05.2001, while working as Junior Bailiff in District Munsif Court, Sankagiri, Salem District.

4. Accepting the Petitioner's application, the Third Respondent through Proceedings dated 12.10.2007 called her for written test and issued another Call Letter on 16.11.2007 to attend the Translation Test [from English to Tamil and Tamil to English). In fact, she had attended both and passed out both the examinations. Pursuant to the selection, she was appointed as Junior Assistant by the Third Respondent/Principal District Judge, Salem District, as per Proceedings in Roc.No.1553/A/2006 dated 20.12.2007 and posted to work at Sub Court, Sankagiri. Later, she joined as Junior Assistant and continued to work till date.

5. The Petitioner had completed ten years of service with unblemished record and annual increments were granted to her. Her grievance is that her service is not regularised, despite repeated requests made to the Third Respondent. Seeking to regularize her service, she made a representation on 03.10.2017 and according to her, the same is not yet considered by the concerned Respondent.

6. The Learned Counsel appearing for Respondents 2 and 3 submits that after receipt of Petitioner's application to appoint her on compassionate ground, a clarification was sought for from the Second Respondent as per Letter in D.No.1139/A/2007, dated 07.02.2007 by the Third Respondent and the Second Respondent/Registrar General, High Court, Madras,

through a Communication in Roc.No.811/2007/C4 dated 27.02.2007 informed that the appointment can be made by the appointing authority themselves adhering to the rules and regularizations in force.

7. The contention of the Respondents 2 and 3 is that the State Government, in the Government Order in G.O. (Ms) No.42, Labour and Employment (Q1) Department dated 12.03.2007, had extended the date for receiving the applications for compassionate ground's appointment for three months considering the ban period and in fact, the Government Order has not spoken about anything in regard to the submission of application by one of the Legal Heir of deceased, when prior application submitted by another Legal Heir is pending and about alternative appointment.

8. The Learned Counsel appearing for Respondents 2 and 3 brings it to the notice of this Court that the Third Respondent/then Principal District Judge, Salem, offered appointment to the writ petitioner as Junior Assistant as per Proceedings in Roc.No.1553/A/2006 dated 20.12.2007 after conducting the test along with 11 others and the post of Junior Assistant comes under the purview of the Tamil Nadu Public Service Commission. Moreover, the regularization of the service proposal in regard to the Petitioner was sent to the Second Respondent by the Third Respondent on 27.07.2010 for onward transmission to the Government. The Government through Letter dated 21.04.2015 rejected the proposal. Thereafter, on the oral representation made by the Petitioner, the Third Respondent/then Principal District Judge, (FAC) re-submitted the proposal to the High Court, Madras on 21.11.2016 narrating the facts on which the alternative appointment was made for onward re-submission to Government. The Communication dated 15.05.2015 received from the Second Respondent was re-submitted by way of proposal and the same now lies with the Second Respondent. On behalf of the Respondent Nos.2 and 3, it is projected that the writ Petitioner is not to be considered unless her appointment is streamlined and regularised although she has succeeded in the stipulated departmental examinations even in the year 2010 for her further promotion. Moreover, the two alleged Junior Assistants were given promotion after their services were promptly regularised and probation was declared as per order in R.O.C.No.14784/A/15, dated 22.12.2015, after the concurrence was accorded by the Government in G.O. (3D) No.58, Home Courts V Department, dated 20.11.2015 for the appointment made to one Thiru.Santhanakrishnan as Junior Assistant and Tmt.Vishnupriya's service was declared as per R.O.C.No.6976/A/2016, dated 16.06.2016 after the concurrence was received from the Government in G.O. (3D) No.26, Home Courts V Department, dated 16.06.2016.

9. At this juncture, the Learned Counsel appearing for Respondent Nos.2 and 3 brings it to the notice of this Court that the Court's proposal in D.No.8689/A/2016, dated 21.11.2016 is to be transmitted to the Government within a period of one week from the date of receipt of a copy of this order.

10. Accordingly, this Court, to prevent an aberration of justice and to promote substantial cause of justice, directs the Second Respondent/Registrar General, High Court, Madras, to transmit the proposal of the Third Respondent/then Principal District Judge, Salem District in D.No.8689/A/2016, dated 21.11.2016 to the First Respondent, within a period of one week from the date of receipt of a copy of this order. Thereafter, the First Respondent is to pass necessary speaking orders in regard to the proposal of the Third Respondent dated 21.11.2016 within a period of four weeks' from the date of receipt of proposal from the Second Respondent.

11. With the aforesaid observations and directions, this Writ Petition stands disposed of. There shall be no order as to costs. The order of the First Respondent in the subject matter in issue, shall be communicated to the Petitioner with due diligence for favour of information.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Principal Secretary,
Home Department,
Government of Tamil Nadu,
Chief Secretariat,
Fort St. George,
Chennai - 600 009.

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

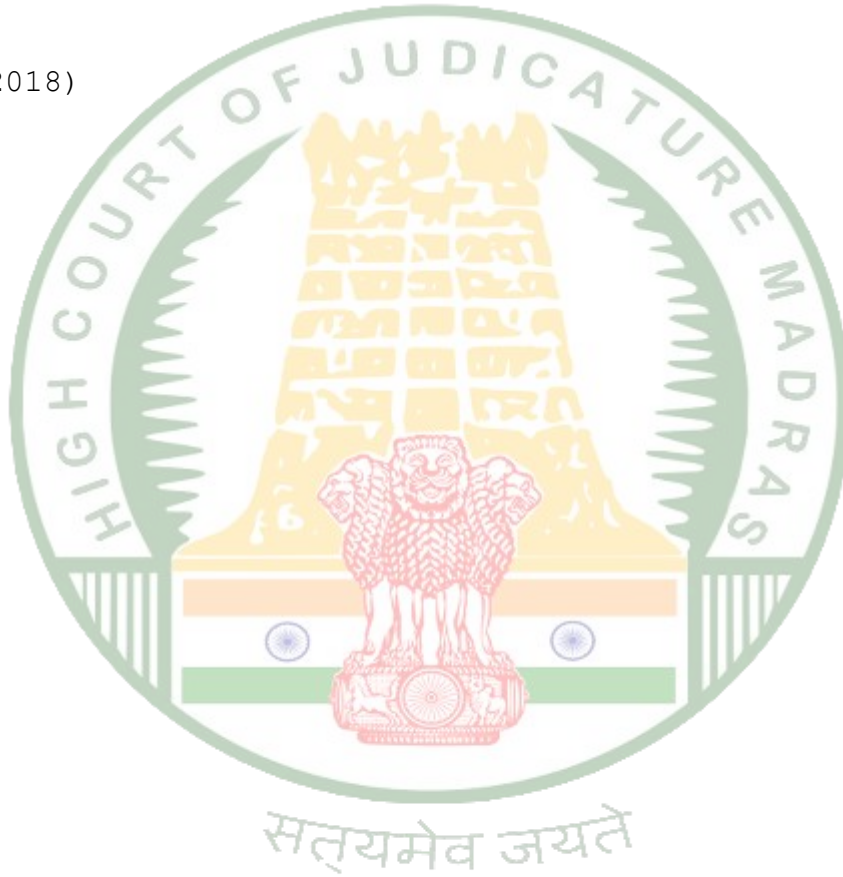
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3. The Principal District Judge,
Salem District,
Combined Court Building,
Yercaud Main Road,
Salem - 636 007.

+1cc to Mr.R.NEELAKANDAN, Advocate, S.R.No. 28303
+1cc to the Government Pleader, S.R.No. 28443

W.P.No.28113 of 2017

GJ II(CO)
TR(17/04/2018)



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