

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24736 of 2006

1.T.Palanivel
2.M.Keerthivasan
3.S.Bhaskar
4.S.Mythali

... Petitioners

Vs.

1.The Secretary to Government,
Finance (Treasuries and Accounts-1)
Department,
Fort St.George,
Chennai - 9.

2.The Special Commissioner and
Commissioner of Treasuries and Accounts,
Chennai - 15.

3.J.Sundararajan
4.G.Rengaraj
5.S.Thiagarajan
6.M.Jeyachandran
7.B.Gopalakrishnan
8.P.Balasubramanian
9.G.Ayothi
10.M.Malarkodi
11.I.Devanbu
12.I.Peter
13.C.J.Prince

सत्यमेव जयते... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order of the first respondent passed in G.O.Ms.No.335 Finance (Treasuries and Accounts-I) Department dated 17.06.2004 and the consequential impugned order of promotion of the respondents 3 to 13 by proceedings of the second respondent passed in Pdl.No.24/2005/Q1, dated 15.06.2006 and quash the same in so far as the amendment made in Proviso Rule 3(g) of Special Rules for the Tamil Nadu State Treasuries and Accounts Service in so far as the ratification issued in para 3 of the impugned order of the first respondent and the promotion order of the respondents 3 to 13.

For Petitioners : Mr.P.P.Shanmugasundaram

For Respondents : Mr.K.Ravikumar for R1 and R2
Additional Government Pleader
Mr.S.K.Selvaraj for R3 to R13

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorari calling for the records pertaining to the impugned order of the first respondent passed in G.O.Ms.No.335 Finance (Treasuries and Accounts-I) Department dated 17.06.2004 and the consequential impugned order of promotion of the respondents 3 to 13 by proceedings of the second respondent passed in Pdl.No.24/ 2005/Q1, dated 15.06.2006 and to quash the same in so far as the amendment made in Proviso to Rule 3(g) of Special Rules for the Tamil Nadu State Treasuries and Accounts Service in so far as the ratification issued in para 3 of the impugned order of the first respondent and the promotion order of the respondents 3 to 13.

2.The case of the petitioners is that they joined the service as Junior Assistant through Tamil Nadu Public Service Commission and was promoted as Assistant and further promoted as Superintendent and they are working as Superintendent under the Social Welfare Department. They are having not less than 21 years of service and they are fully qualified to hold the post of Assistant Accounts Officer in the second respondent Department. As per the Rules of recruitment, the said post have to be filled up by transfer of service from the other Departments to the extent of 60% and the subordinate staff of the Treasuries and Accounts Department are entitled to 40% of the post by transfer of service from Treasuries Subordinate Service.

3.It is the further case of the petitioners that the respondents 1 and 2 were filling up the post only through the Treasuries and Accounts service and hence, it was questioned by some other Government servants who were working as Superintendents before the State Administrative Tribunal in O.A.Nos.6836 to 6841 of 2001 and the Tribunal vide order dated 27.02.2002 directed the respondents 1 and 2 to appoint the applicants therein. However, the first respondent issued G.O.Ms.No.335 Finance (Treasuries and Accounts-I) Department dated 17.06.2004 amending the entire service rule for non-suiting eligible candidates in the other Departments to the post of Assistant Accounts Officer and the respondents 3 to 13 were given promotion. Aggrieved by the same, the petitioners have filed this writ petition.

4.The fact remains that the very same issue was dealt with by this Court in W.P.No.22658 of 2006 and this Court vide order dated 17.08.2010 dismissed the writ petition, as against which, the petitioner therein filed writ appeal in W.A.No.919 of 2011 and the Division Bench of this Court vide judgment dated 30.06.2017 dismissed the writ appeal.

5.It is useful to extract hereunder the relevant portions of the judgment dated 30.06.2017 made in W.A.No.919 of 2011:

"7. The substantial prayer in the writ petition filed by the appellant in W.P.No.22658 of 2006 was to quash the amendment made to the Special Rules as per G.O.Ms.No.335 Finance (Treasuries and Accounts-1) Department, dated 17.06.2004. The appellant also called in question the order dated 30.08.2004 rejecting her request for promotion as Assistant Accounts Officer for the year 2002-2003 by the Special Commissioner for Treasuries and Accounts.

8. Rule 3 Sub-Rule (g) of the Tamil Nadu State Treasuries and Accounts Services, provides that out of every 5 vacancies of Assistant Accounts Officer, the first two vacancies shall be reserved for recruitment by transfer from Sub Treasury Officer and Superintendents in the Treasuries and Pay and Accounts Offices and that the remaining 3 vacancies shall be reserved for recruitment by transfer from among persons holding the post of Superintendents in other departments. The Rule further provides that in any of the year, the prescribed ratio cannot be followed for want of qualified candidates in one category, that can be filled up by taking qualified candidates from other category and vice versa. The Government appears to have prepared panel every year in accordance with Rule 3 (g) of the Special Rules. Subsequently, the Government incorporated the guidelines issued earlier and notified the amended special rules in G.O.Ms.No.335 dated 17.06.2004. The claim made by the appellant for promotion was rejected on the ground that she belongs to Social Welfare Department and the said department was over represented. It is the contention of the appellant that there was no basis in the finding with regard to over representation."

6.The issue in this writ petition has already been settled in W.A.No.919 of 2011. However, it is now brought to the notice of this Court by the learned counsel appearing for the petitioners that already the petitioners retired from service and the respondents 3 to 13 also retired from service.

7.In view of the above, I do not find that anything would survive for adjudication in this writ petition since already the issue was settled in W.A.No.919 of 2011.

8.The writ petition is accordingly dismissed. No costs.

Sd/-

Assistant Registrar (CS-V)

// True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Finance (Treasuries and Accounts-1)
Department,
Fort St.George,
Chennai - 9.
- 2.The Special Commissioner and
Commissioner of Treasuries and Accounts,
Chennai - 15.

+1cc to Mr.R.Kannan, Advocate SR.No.49240
+1cc to Mr.P.P.Shanmugasundaram, Advocate SR.No.49134
+1cc to Government Pleader SR.No.50004

W.P.No.24736 of 2006

PSY (CO)
SMI/21.08.2018

WEB COPY