



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP (MD) No.4553 of 2018

and

WMP (MD) No.4651 of 2018

- 1.G.Mahesh
- 2.M.Vijayakumar
- 3.R.Lakshmi
- 4.K.Chellathai
- 5.S.Abirami
- 6.K.Tamilzharasi
- 7.V.Balagurunathan
- 8.G.Balasubramanian
- 9.P.Mariyasoosai
- 10.S.Ramesh
- 11.S.Varatharaja Perumbadaiyan

... Petitioners

Vs.

1. The Secretary to Government,
Revenue and Disaster Management Department,
Secretariat, Chennai - 9.
2. The Additional Chief Secretary,
Commissioner of Revenue Administration,
Chepauk, Chennai -5.
3. The District Collector,
District Collector's Office,
Dindigul.
4. The District Revenue Officer,
Dindigul District.

... Respondents

Prayer : This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the first respondent vide G.O. (2D) No.28, Revenue and Disaster Management [Service 6(1)] Department dated 29.01.2018 and to quash the same and consequently direct the respondents to include the petitioners' name in the panel of assistant drawn for the year 2012 in Dindigul District.



For Petitioners
For Respondents

: Mr.S.Vijayakumar
: Mr.K.Saravanan,
Government Advocate

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ORDER

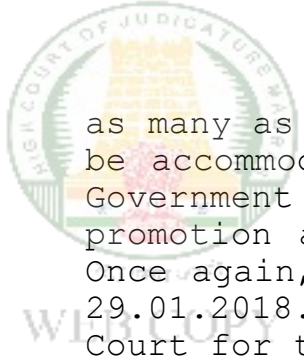
The petitioners herein were appointed as Typist through the Tamil Nadu Public Service Commission in the year 2009 in Dindigul District. Their services were duly regularised on 12.06.2010. They completed their probation on 30.09.2011. Their next promotional post is that of an Assistant. Qualification prescribed for the post of Assistant from Typist is passing the following departmental test :

- 1.The Computer course on Office Automation
- 2.Revenue Test Part I
- 3.Revenue Test Part II.
- 4.Revenue Test Part III.
- 5.Survey and settlement Training
- 6.One year training as Junior Assistant.

2.The petitioners herein in the year 2012 had cleared the tests before the crucial date namely 15.03.2012. However, they were not promoted to the post of Assistant for the year 2012. Because, they had not undergone one year training as Junior Assistant as stipulated in G.O.(Ms) No.417, Personnel and Administrative Reforms (Per.B) Department, dated 01.12.1993. The petitioners herein therefore launched a series of litigations in this regard. They filed WP(MD)No.8270 of 2012 wherein they sought a direction to the third respondent for inclusion of their names at the appropriate places in the panel of Typist/Junior Assistant, fit for promotion to the post of Assistant for the year 2012 without insisting to undergo one year training as Junior Assistant.

3.Even though, the prayer in WP(MD)No.8270 of 2012 is similar to the one now made, a restrictive relief was sought at the time of argument. Therefore, this Court directed the District Revenue Officer, Dindigul to consider the petitioners' claim and pass appropriate orders in accordance with law. Pursuant to the direction given by this Court on 20.06.2012, The D.R.O, Dindigul passed the order dated 10.07.2012 holding that the writ petitioners would be eligible for Assistant promotion only if they had completed one year junior assistant training before the crucial date that is 15.03.2012. The District Revenue Officer, Dindigul took a stand that they have to seek remedy from the Government and declined their claim for inclusion of their names for Assistant panel for the year 2012.

4.Again, another writ petition was filed before this Court in WP(MD)No.11341 of 2012. This Court by order dated 08.01.2013 disposed of the said writ petition by specifically observing that



as many as 14 vacancies were available in which the petitioners can be accommodated. Therefore, a direction was again given to the Government for consideration of the case of the petitioners for promotion against the vacancies that had arisen after 15.03.2011. Once again, the request stood rejected by the impugned order dated 29.01.2018. Therefore, the petitioners knocked the doors of this Court for the third time.

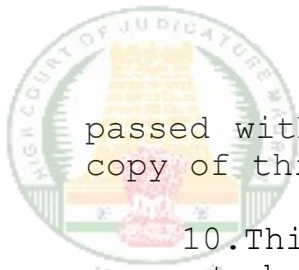
5. Heard the learned counsel for the parties.

6. The short point to be considered is this whether the petitioners can be denied their claim for inclusion in the panel for the post of Assistant for the year 2012 on the sole ground that they have not undergone Junior Assistant training for one year before the crucial date. In this case, G.O.(MS)No.417 dated 01.12.1993 mandates that all the seniors in the category of Typist who are likely to get their promotion as Assistants in the course of next one or two years shall be asked to undergo training as Junior Assistants for a period of one year by allotting a few subjects covering different aspects of the department and they shall be allowed to dispose of the files without detriment to their typing work.

7. In this case, as already held by this Court in WP(MD)No.11341 of 2012 dated 08.01.2013, vacancies were very much available after 15.03.2011. The crucial date in this case is 15.03.2012. Therefore, the respondents 3 and 4 ought to have sent the petitioners for junior assistant training as contemplated by Clause 4(c) of the G.O(MS)No.417 dated 01.12.1993. For the fault of the authorities in not asking the petitioners to undergo training as Junior Assistants, the petitioners cannot obviously suffer.

8. The issue on hand is no longer res integra. This Court in a number of cases held that the service qualifications cannot be equated to the qualification of a pass in the departmental test. While the pass in a departmental test may be in the hands of the individual, the posting of the individual to a particular post, is not within the hands of the individual. Likewise, in this case, the undergoing of the said training was really is not in the hands of the petitioners. The District Collector concerned alone can ask them to undergo such a training. Therefore, the issue on hand has to be necessarily answered in favour of the petitioners as held in WP(MD)No.15180 of 2013 dated 14.06.2013.

9. The above said order of the learned Single Judge was appealed against in WA.No.2216 of 2013. The Hon'ble Division Bench of this Court by order dated 03.04.2014 dismissed the said writ appeal. This Court can take judicial notice of the fact that this order has been followed in a number of cases. Therefore, the order impugned in this writ petition is quashed and the respondents are directed to include the names of the petitioners in the panel of Assistant drawn for the year 2012 in Dindigul District. Such order shall be



passed within a period of four weeks from the date of receipt of a copy of this order.

10. This writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-1)

To

1. The Secretary to Government,
Revenue and Disaster Management Department,
Secretariat, Chennai - 9.
 2. The Additional Chief Secretary,
Commissioner of Revenue Administration,
Chepauk, Chennai -5.
 3. The District Collector,
District Collector's Office,
Dindigul.
 4. The District Revenue Officer,
Dindigul District.
- + 3 CC TO Mr.P.VELMURUGAN, ADVOCATE IN SR No. 59135
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 59469

SKM

TE/SKN/SAR-1 : 24/07/2018 : 4P/9C

WP (MD) No.4553 of 2018 and
WMP (MD) No.4651 of 2018
28.03.2018