



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) Nos. 19126 & 19127 of 2017 and 522 of 2018
and
W.M.P. Nos. 15511 to 15514 of 2017 & 515 & 516 of 2018

P. Balamurugan ... Petitioner in W.P(MD) No. 19126 of 2017
S. Udayakumar ... Petitioner in W.P(MD) No. 19127 of 2017
Rajarajan ... Petitioner in W.P(MD) No. 522 of 2018

Vs.

1. The State of Tamil Nadu
Secretary to Government,
Finance (Treasuries & Accounts)
Fort St. George,
Chennai - 600 009.

2. The Commissioner of Treasuries and Accounts,
Integrated Finance Department Complex,
3rd Floor, Nandhanam,
Anna Salai, Chennai - 35.

... Respondents

PRAYER in W.P(MD) Nos. 19126 and 19127 of 2017: Writ Petitions are filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.No.18923/C3/2017 dated 09.08.2017 and quash the same as illegal and consequently direct the respondents to consider the petitioner for appointment by transfer to the post of Superintendent in the 2nd respondent department by preparing State-wide inter se seniority list among the directly recruited and promote Accountants in the ratio of 1:2 in terms of G.O.Ms.No.63 Finance (T and A) Department, dated 24.01.1975 within the period that may be stipulated by this Court.

PRAYER in W.P(MD) No. 522 of 2018: 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 impugned order passed by the 2nd respondent in Na.Ka.No.18923/C3/2017 dated 18.09.2017 and quash the same as illegal and consequently direct the respondents to consider the petitioner for appointment by transfer to the post of Superintendent in the 2nd respondent



department by preparing State-wide inter se seniority list among the directly recruited and promote Accountants in the ratio of 1:2 in terms of G.O.Ms.No.63 Finance (T and A) Department, dated 24.01.1975 within the period that may be stipulated by this Court.

For Petitioner : Mr.M.E.Ilango in all WP
For Respondents : Mr.K.Saravanan G.A., in all WP

COMMON ORDER

The petitioner in these writ petitions are presently working as Accountant in various District Treasury Offices. The recruitment to the said post is governed by the Tamil Nadu Ministerial Service Rules. The relevant provision is Rule 2, Category 12. It states that one out of every three substantive vacancies in the post of Accountant in the Treasuries and Accounts Department shall be filled up by way of direct recruitment. The other two vacancies will be filled up by way of promotion. Since sufficient number of promotee candidates were not available, the Government by G.O.Ms.No.93, dated 18.03.2011 granted relaxation of the ratio set out in the aforesaid rule for the year 2010-11.

2.The petitioners herein were directly recruited as Accountants in December 2012. The next promotional post is that of Superintendent. The post of Superintendent will have to be filled up by way of recruitment by transfer from among the Accountants in the department of Treasuries and Accounts in Tamil Nadu Ministerial Service. It is clearly mentioned in Tamil Nadu Treasuries and Accounts Subordinate Services Special Rules that for the purposes of appointment to the service, the State shall be the Unit. No doubt as rightly highlighted in the impugned order as well as by the respondents during the course of hearing as per rule 18 of the Tamil Nadu Ministerial Service Rules, it is the district that shall be the administrative unit for the post of Accountant.

3.The only issue before this Court is as to how the seniority shall be fixed in the post of Accountant in Treasuries and Accounts Department. It is true that for the year 2010-11, the Government had relaxed the ratio set out in the Rule 2 Category 12. But then relaxation was made only in respect of the ratio of appointment. As early as in the year 1975, the Government had issued G.O.Ms.No.63, Finance Department, dated 24.01.1975 mandating that the seniority shall be in the following cyclical order:-

- 1.Direct Recruitment
- 2.Promotion and
- 3.Promotion

4.Of course, the said G.O. states that necessary amendment to the special rules will be issued separately. But it appears that till date, the special rules have not been amended insofar as fixation of seniority is concerned. But then it is equally a fact



that the G.O.Ms.No.63 dated 24.01.1975 has not been modified or superseded as on date.

5. In the impugned order, it is highlighted that if the request of the writ petitioner is accepted, it would cause several administrative difficulties. But then the mandate set out in the G.O.Ms.No.63, Finance Department, dated 24.01.1975 cannot be ignored. The special rule also clearly states that the vacancies in the post of Superintendent in Treasuries and Accounts Department will be filled up by way of transfer from among the accountants in the department of Treasuries and Accounts in Tamil Nadu Ministerial Service. Therefore, it is the duty of the second respondent to prepare a State-wise seniority list. Basic data is very much available. It has been conceded that inter-se seniority list between the direct recruits and promotees has not yet been prepared. This is not an acceptable state of affairs. Even as per the statutory rule, the post of accountant is filled up from two sources, namely, direct recruitment and promotion. The ratio is also fixed in statutory rules. The ratio has been relaxed on two occasions. But the fact remains that as on date, the cadre of Accountant comprises both direct recruits as well as promotees. Therefore, in the very nature of things, there will have to be a seniority list and inter se seniority list. Citing administrative difficulties as reason, the duty to prepare an inter se seniority list cannot be abdicated. The reasons set out in the impugned order are patently unsustainable. The orders impugned in these writ petitions stand quashed. The respondents are directed to prepare an inter se seniority list of promotees as well as direct recruits as per the principles laid down in G.O.Ms.No.63, Finance Department, dated 24.01.1975. The second respondent shall prepare the tentative seniority list within a period of six weeks from the date of receipt of a copy of this order and invite objections from the individuals concerned and the final seniority list will be finalized within a period of eight weeks thereafter.

6. These writ petitions are allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Finance (Treasuries & Accounts)
Fort St. George,
Chennai - 600 009.



2.The Commissioner of Treasuries and Accounts,
Integrated Finance Department Complex,
3rd Floor, Nandhanam,
Anna Salai, Chennai - 35.

+3CC TO M/S.M.E.ELANGO, ADVOCATE, SR NO.51838
+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.52340

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19127 of 2017 and 522 of 2018
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