IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.34914 of 2005

S.Kamala ...Petitioner

Vs.

1.Government of Tamil Nadu
rep. by Secretary to Government
Finance (T & A) Department
Fort St. George
Chennai 600 009

2.The Commissioner of Treasuries and Accounts
Chennai 600 015 ...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent / Government in G.O.[2D].No.1, Finance (T. & A.) Department, dated 28.01.2005, quash the same and issue consequent directions to the respondents to give retrospective effect to the petitioner's promotion as Assistant Treasuries Officer and to give retrospective effect to her the petitioner's promotion as Accounts Officer from the date of promotion of her immediate juniors to the respective post and to grant consequential service and monetary benefits.

For Petitioner : Mr.S.Rishab Narayanan
for Mr.M.Ravi

For Respondents : Mr.A.Ansar, G.A.

O R D E R

This petition has been filed by the petitioner to call for the records of the first respondent / Government in G.O.[2D].No.1, Finance (T. & A.) Department, dated 28.01.2005, quash the same and issue consequent directions to the respondents to give retrospective effect to the petitioner's promotion as Assistant Treasuries Officer and to give retrospective effect to her the petitioner's promotion as Accounts Officer from the date of promotion of her immediate juniors to the respective post and to grant consequential service and monetary benefits.

2.The writ petitioner joined service as Junior Assistant in the Treasuries and Accounts Department in Tiruchirapalli District on 31.07.1968 and thereafter she was promoted to the post of Assistant / Accountant with effect from 01.10.1973 and was promoted as Superintendent in the year 1993 and as an Assistant Treasury Officer in the year 2000 and as Accounts Officer in 2005.

3.The grievance of the petitioner is that whenever the option was called for deputation to one year Sub Treasury Training, the petitioner exercised her option for such training. Since the seniority list of Superintendent was not published and circulated in the Department, she was not able to know her placement in the seniority list. On perusing the seniority list available in the office, the petitioner came to know that she should have been promoted as Assistant Treasury Officer in the year 1998 itself but on account of delay and lapse on the part of the respondent Department to depute her for one year training in time in accordance with her seniority in the post of Superintendent, her promotion got delayed. Hence, a representation dated 01.09.1997 was made by the petitioner while she was working as Superintendent in the office of the Director of Pensions, Chennai, requesting the 2nd respondent to depute her for Sub Treasury Training for one year in any one of the Sub Treasuries of Chennai City. Due to the said personal request of the petitioner, she was deputed for Sub Treasury training to the Sub Treasury, Tambaram on 25.06.1998 and completed the training on 24.06.1999. Therefore, she was not included in the temporary panel for the year 2000-2001.

4.The writ petitioner further submitted that one Thiru.Bhoopathy was allowed to serve as Additional Sub Treasury Officer, Tambaram from 1994-1997 continuously and only after the petitioner's repeated request, she was posted as Additional Sub Treasury Officer, Tamabaram and only after that she joined duty on 25.06.1998. Therefore, the Juniors of the petitioner were given training during that time at Chennai City itself and the petitioner was not deputed for training in any of the Sub Treasuries at Chennai City Unit but was deputed to Kancheepuram District only. Therefore, it cannot be termed as relinquishment of her promotion for a period of one year. The petitioner's detailed representation dated 18.05.2000 to the 1st respondent was rejected by the Government in G.O.[2D] No.1, Finance (T. & A.) Department dated 28.01.2005 on the ground that the petitioner opted for in-service training in a Sub Treasury at Chennai City and that was the reason for the delay in deputing the petitioner for training.

5.According to the learned counsel for the petitioner, the impugned order has been passed without proper application of mind to the facts of this case and the delay in promoting the petitioner is only on the part of the respondent department and there is no lapse on the part of the petitioner. Hence, the said promotion order, granting promotion to the writ petitioner from the year 2001-2001 is illegal and liable to be set aside.

6.The learned Government Advocate appearing for the respondents filed counter. In the said counter affidavit, the respondents have stated that the petitioner joined in service as Junior Assistant in Treasuries and Accounts Department and promoted as Accountant and Superintendent as per the due seniority. The next avenue of promotion of the petitioner is Assistant Treasury Officer / Senior Superintendent, for getting that promotion she needs to complete one year Sub Treasury Training. When her turn for Sub Treasury Training came up she was posted to work at Kancheepuram District, but the petitioner was declined to join at Kancheepuram instead orally requested the respondent to post her in and around Chennai City due to family circumstances. Her request was considered on humanitarian basis and therefore she was posted to work in Sub-Treasury, Tambaram by giving top priority. Hence, she was considered for next promotion at a later date as per rules in vogue and she was deputed to Sub Treasury training in Sub-Treasury, Tambaram and completed training only on 24.06.1999. Thereafter, her name was included in the panel of Assistant Treasury Officer / Senior Superintendent during 2000-2001. Therefore, the aforesaid delay is only due to the petitioner's request and not by the respondent department. The petitioner has stated in her affidavit that one Thiru.Boopathy was allowed to serve as Additional Sub-Treasury Officer at Sub Treasury, Tambaram continuously from the year 1994-1997, is incorrect. The aforesaid Thiru.Boopathy, then Superintendent, District Treasury, Pudukottai was deputed to Sub-Treasury Training at Sub Treasury, Tambaram with effect from 07.07.1995, as he was not completed one year of Sub-Treasury Training on the crucial date of panel i.e. 01.04.1996, he was allowed to continue till 18.06.1997 i.e. upto the general transfer period. As per G.O.No.10 P&AR Dept., dated 07.01.1994, no Government servant should be transferred in the middle of academic year and the transfer should be made only during the general transfer period i.e. May and June. Therefore, the allegation stated by the petitioner in the writ petition is contrary to the aforesaid facts. Accordingly, prays for appropriate orders.

7.Considering the submissions of the counsel for the parties and also analysing the aforesaid fact, it is seen that as per Treasuries and Accounts Subordinate Service Rules one must undergo Sub Treasury training for one year to become eligible for further promotion. The Sub-Treasury training is being imparted on the individuals according to their seniority. The petitioner has also admitted the fact that she made a request to the respondent department to depute her to Sub-Treasury training in and around Chennai due to her family circumstances and orally accepted to wait till the vacancy would arise. Once the vacancy arose, top priority was given to the petitioner by the respondent department and she was deputed to the training at Sub-Treasury training, Tambaram. After completion of Sub-Treasury training, her name was considered and included in the panel of Assistant Treasury Officer / Senior Superintendent for the year 2000-2001 and promoted and posted in Chennai city office. The petitioner joined the aforesaid post in the year 2000 and made a representation to the first respondent / Government on 18.05.2000 to grant promotion to the writ petitioner in the year 1998-1999. The said request was rightly rejected by the Government by passing the impugned order on the ground that the petitioner opted for in service training in a Sub-treasury at Chennai City and that was the reason for the delay in deputing the petitioner for training.

8.Therefore, the aforesaid reasons stated in the counter affidavit states that there is no lapse or delay on the part of the respondent department for promoting the writ petitioner in the year 1998-1999 and as per the Treasuries and Accounts Subordinate Service Rules, the petitioner must have undergone one year training to become eligible for further promotion of Assistant Treasury Officer / Senior Superintendent. Therefore, it is clear from the aforesaid facts that the petitioner completed training only in the year 1999 and thereafter her name was included in the panel of Assistant Treasury Officer / Senior Superintendent during 2000-2001.

9.In the light of the above facts and circumstances, this court finds that the impugned order passed by the 1st respondent is perfectly valid and the same does not warrant any interference and there is no merit in this petition. Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar (CCC)

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Sub Assistant Registrar

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To.

1.The Secretary to Government
Government of Tamil Nadu
Finance (T & A) Department
Fort St. George
Chennai 600 015

2.The Commissioner of Treasuries and Accounts
Chennai 600 015.

+1cc to Mr.M.Ravi, Advocate, S.R.No. 92601

W.P.No.34914 of 2005

PVS(CO)
GN(20/12/2019)