

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.23968 of 2012

WMP.No.22438 of 2019

Tmt.P.M.Umamaheswari

.. Petitioner

Vs.

1. State of Tamil Nadu, rep. by
its Secretary to Government,
Home, Prohibition & Excise
Department, Secretariat,
Chennai - 9.

2. Director of Forensic Science,
Chennai-4.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Mandamus, directing the 1st respondent to consider and promote the petitioner as Photographer by considering the appeal dated 11.06.2012 preferred by the petitioner, fixing outer time limit.

For Petitioner: Mr.C.Selvaraju, Sr.Counsel
for M/s. C.S.Associates

For Respondents: Mr.Akhil Akbar Ali, Govt. Advocate

O R D E R

Though the prayer in the writ petition is for considering the appeal dated 11.06.2012, the material on record shows that the prayer of the petitioner had already been rejected by an order dated 31.07.2012 by the Director of Forensic Sciences. This Court is therefore considering the merits of the petitioner in the order dated 31.07.2012 passed by the 2nd respondent rejecting the claim of the petition.

2. The petitioner was appointed as a Junior Photographic Attendant on 09.12.1992 with the Directorate of Forensic Sciences. The petitioner states that when she joined the office of the Director of Forensic Sciences, there was separate promotional avenues for photographic attendant posts. The hierarchy of posts reads as under:-

1. Scientific Assistant (Photography) Category 2 - Class 1
2. Senior Photographer - Category 1 Class II
3. Junior Photographer - Category 2 Class II
4. Technical Photography - Category 3 Class III
5. Senior Photographic Attendant - Category 2 - Class IV
6. Junior Photographic Attendant - Category 2 Class V

3. The petitioner states that on the other side, ie., lab attendant side, the promotional avenues was one from junior laboratory attendant to senior laboratory attendant and then the Technician.

4. Since there was lack of promotional avenues in the Technical side, it was decided to amalgamate both the sides. The Government issued G.O.Ms.No.2790 dated 03.10.1986 and the Tamil Nadu Forensic Sciences Subordinate Service Rules was constituted. The services were divided in to seven classes. The post covered in the classes read as under:-

"TAMIL NADU FORENSIC SCIENCES SUBORDINATE SERVICE

1. CONSTITUTION.-

The service shall consist of the following classes and categories, namely:-

Class I		
Category 1	1	-ScientificAssistantGrade-I
		- Scientific Assistant
Category 2	2	(Photography)
Category 3	3	Scientific Assistant - Grade-I
		I
Class II		
Category 1	1	Senior Photographer
Category 2	2	Junior Photographer
Category 3	3	Store Keeper
Class III		
		Technical Assistant (Air
Category 1	1	Conditioning)
Category 2	2	Technical Assistant - (Gas
		Plant)
Category 3	3	Technician (Photography)
Category 4	4	Technician (Laboratory)
Class IV		
Category 1		Senior Laboratory Attendant
Category 2		Senior Photographic Attendant
	Class V	
Category 1		Junior Laboratory Attendant
Category 2		Junior Photographic Attendant
Class VI		
Librarian		
Class VII		
Animal Attendant		

5. The mode of appointment to these posts read as under:-

"Appointment:-

Appointment to the several classes and categories specified in column (1) of the Table below shall be made by the methods specified in the corresponding entries in column (2) thereof:-

THE TABLE

Class and Category	Method of Appointment
Class I	
Category 1 - Scientific Assistant Grade I	i) By promotion from among the holders of the post in category 3 of Class I ; or ii) By direct recruitment or iii) For special reasons recruitment by transfer from any other service
Category 2 - Scientific Assistant (Photography)	i) By promotion from among the holders of the post in category 1 of Class III ; or ii) By recruitment by transfer from any other service
Category 3 - Scientific Assistant Grade-II	i) By direct recruitment or ii) By recruitment by transfer from any other service.
Class II	
Category 1 - Senior Photographer	i) By promotion from among the holders of the post in Category 2 of Class I ; or ii) By recruitment by transfer from any other service
Category 2 - Junior Photographer	i) By promotion from among the holders of the post in category 3 of Class II ; or ii) By recruitment by transfer from any other service
Category 3 - Store Keeper	i) By direct recruitment or ii) By recruitment by transfer from any other service.
Class III	
Category 1 - Technical Assistant	

(Air Conditioning)

- i) By direct recruitment or
- ii) By recruitment by transfer from any other service.

Category 2 - Technical Assistant
Gas Plant

- i) By direct recruitment or
- ii) By transfer from any category in Class III; or
- iii) By recruitment by transfer from any other service

Category 3 - Technician (Photography)

- i) By promotion from among the holders of the post in category 2 of Class IV ; or
- ii) By transfer from any category in Class III; or
- iii) By recruitment by transfer from any other service

Category 4 - Technician (Laboratory)

- i) By promotion from among the holders of the post in category 1 of Class IV ; or
- ii) By transfer from any category in Class III; or
- iii) By recruitment by transfer from any other service

Class IV

Category 1 - Senior Laboratory Attendant

- i) By promotion from among the holders of the post in category 1 of Class V ; or
- ii) By transfer from category 2 of Class IV; or
- iii) By recruitment by transfer from any other service

Category 2 - Senior Photographic Attendant

- i) By promotion from among the holders of the post in category 2 of Class V ; or
- ii) By transfer from category 1 of Class IV; or
- iii) By recruitment by transfer from any other service

Class V

Category 1 - Junior Laboratory Attendant

By direct recruitment

Category 2 - Junior Photographic Attendant

By direct recruitment

Class VI

Librarian i) By direct recruitment
 any other service ii) By recruitment by transfer from
 Class VII
 Animal Attendant By direct recruitment"

6. As stated earlier the petitioner was appointed as a Junior Photographic Attendant on 09.12.1992, in terms of the G.O.Ms.No.2790 dated 03.10.1986. The petitioner services were regularized with effect from 09.12.1992. The material on record also shows that the G.O.Ms.No.892 Home (Police.XVI) Department dated 27.06.1996 were issued and the Special Rule of Tamil Nadu Forensic Sciences Subordinate Service Rule was further amended by issuing Special Rules. As per the Special Rules, the post of Junior Photographic Attendant merged to the post of laboratory assistant. Since the responsibility of the two posts are similar.

7. The petitioner was promoted as senior laboratory attendant and further as Technician on 08.02.2011. As per the Tamil Nadu Forensic Sciences Subordinate Service Rules, on 11.11.2008, the post of junior laboratory attendant and senior laboratory attendant were once again merged and re-designated as laboratory assistant. As per the amended Rules made in the year 2008, the list of promotion for the post of laboratory attendant is as follows:-

Sl.No	Name	Date of Promotion as Technician	Date of Posting in the Photo Division as Technician	Date of promotion as Photographer	Present status
1	V.Dhanachandran	02.11.1998	12.06.2009	13.11.2012	Retired on 31.12.2017 as Photographer
2	R.Muniya	31.12.2002	15.12.2010	06.02.2014	working as Photographer since 13.06.2018
3	P.Sundar	16.08.2004	04.02.2013	26.12.2017	working as Photographer since 26.12.2017
4	N.Selvaraj	11.08.2004	06.10.2014	21.12.2017	working as Photographer since 21.12.2017

Sl.No	Name	Date of Promotion as Technician	Date of Posting in the Photo Division as Technician	Date of promotion as Photographer	Present status
5	K.B.Thaiyub Mohamed	16.12.2010	16.11.2017	12.12.2018	working as Photographer since 12.12.2018
6	P.Uma Maheswari	18.02.2011	12.03.2018	15.07.2019	working as Photographer since 15.07.2019

8. The petitioner states that she is now entitled to be promoted as photographer. The petitioner states that the qualifications for being appointed as photographer is that she should have an experience of not less than three years in photographic division in the Tamil Nadu Forensic Sciences. Her claim is that she has got 14 years experience in photography division, at that time of appointment from 1992 to 2007. The petitioner states that she gave a representation for being promoted to the post of photographer which has not been considered.

9. The respondents have filed a counter stating that her services as junior laboratory attendant and senior laboratory attendant from 1992 to 2011 cannot be construed as experience in photographic division. The stand of the respondent that the experience gained in the lower posts of senior laboratory attendant and junior laboratory attendant are not equivalent to the experience gained in the higher post of technician in the photographic division. The counter states that only when a technician gains experience in the photographic division, he can be promoted as photographer.

10. Heard the counsel for the parties.

11. The learned counsel for the petitioner has primarily reiterated the contention made in the writ petition. The learned counsel for the respondents would state that the petitioner has been promoted as photographer on 16.07.2009 and therefore nothing survives in the writ petition. The question that arises for consideration is whether the petitioner was entitled to be appointed as a photographer in the year 2012 or not.

12. By virtue of G.O.Ms.No.892 Home (Police.XVI) Department dated 27.06.1996, the Tamil Nadu Forensic Sciences

Subordinate Service Rules, were reissued under the said G.O., The qualification required for appointment of photographer are read as under:-

Class II
Category 1
Photographer

- i) By promotion from among the holders of the post of Technician, or Experience for a period of not less than three years in the photography division of the Tamilnadu Forensic Science Subordinate Services
- ii) By direct recruitment, if no suitable candidates are available for appointment by promotion 1) A degree in Physics or chemistry and 2) A diploma in photography awarded by the National Institute of and Forensic Science, Ministry of Home Affairs, New Delhi, and A diploma in Cinematography or processing Technology awarded by the Film Institute of Technology, Government of Tamil Nadu.

13. It is also worth mentioning that the respondents have given seniority to the persons in the post of Technician in the year 2011-2012. A perusal of the same would show that there are 5 persons who are working as Photographic Technicians and who are senior to the petitioner. The petitioner is therefore in any event was not entitled to be promoted to the photographer since she was junior to the following candidates:-

"i.D.Dhanachandran ii) R.Muniya iii) P.Sundar iv) N.Selvaraj and v) K.B.Thaiyub Mohamed."

14. The petitioner had been promoted as Photographic Technician after these persons and therefore in the year 2012, she could not have been promoted as photographer. Appointment to the post of photographer would arise only after the above said persons got promotion as photographer. In any event, a perusal of G.O.Ms.No.892 Home (Police.XVI) Department dated 27.06.1996, quoted supra, would show that the experience that is required for being appointed as photographer would be promotion from the post of Photographic Technician in the photographic division. It cannot be said that experience gained in the laboratory would entitle the petitioner to be considered as a photographer and therefore her experience for being considered as a photographer is only from 12.03.2018. In

view of the fact as on 2012, there were persons senior to the petitioner, the petitioner could not have overtaken them to become a photographer. Writ petition is dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

Pkn.

To

1. The Secretary,
State of Tamil Nadu,
Home, Prohibition & Excise
Department, Secretariat,
Chennai - 9.

2. Director of Forensic Science,
Chennai-4.

+1cc to M/s.C.S.Associates, Advocate SR.88398

+1cc to the Government Pleader SR.88710

W.P.No.23968 of 2012

MR(CO)
CB(02/12/2019)



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