

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2019

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.663 of 2013

G.Balasubramanian,
Asst., Treasury Officer,
Sub-Treasury, Pollachi.

.. Petitioner

-vs-

1.The State of Tamil Nadu, Rep., by
The Principal Secretary to Government,
Fort St., George, Chennai-600 009.

2.The Commissioner of Treasuries & Accounts,
'Panagal Building', Saidapet,
Chennai-600 015.

.. Respondents

Petition under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent bearing G.O.No.295 dated 12.11.2012 and to quash the same with consequential direction to the first respondent to consider the case of the petitioner for promotion keeping in mind the provisions of G.O.No.1120 dated 30.10.1984 in a manner known to law.

For Petitioner : Mr.P.Haribabu

For Respondents : Mr.A.Ansar
Govt.Advocate

O R D E R

The petitioner has filed this writ petition to issue a Writ of Certiorarified Mandamus to quash order of the first respondent in G.O.No.295, dated 12.11.2012 and for a consequential direction to the first respondent to consider the case of the petitioner for promotion keeping in mind the provisions of G.O.No.1120, dated 30.10.1984 in a manner known to law.

2.The case of the petitioner is that in terms of

G.O.Ms.No.1120, dated 30.10.1984, the petitioner should have been promoted as Accounts Officer. According to him, in terms of the Government Order, a person, who is unable to clear the Departmental Examination conducted for promotion in five attempts and if he is over 53 years of age, he should be considered and promoted to the next higher post and that the petitioner is entitled to the relief.

3.It is stated that the petitioner is not a B.Com., Degree holder, but however, has passed the Department Examination with regard to Subordinate Officers of Treasuries and Accounts Department and Accountancy Lower Grade. It is further stated that in terms of G.O.Ms.No.1120, dated 30.10.1984, the exemption from passing examination is given in respect of examination of Special and Departmental Tests conducted by Tamil Nadu Public Service Commission and hence, the petitioner is entitled to the relief sought for in the writ petition.

4.The respondent has filed a counter affidavit stating that it is no doubt true that the petitioner has failed in five attempts and completed 53 years of age and did not have a B.Com., degree apart from the fact that he has not passed Accountancy Higher Grade Examination, except clearance of the Departmental Tests for Subordinate Officers of Treasuries and Accounts Department and Accountancy Lower Grade. Therefore, he is not entitled to the relief sought for in the writ petition. It is further stated that since G.O.Ms.No.1120, dated 30.10.1984 is in addition to the condition laid down in Rule 5 of the Special Rules for Tamil Nadu State Treasury and Accounts Service, which is mandatory in nature for considering the case of the petitioner for promotion, the impugned order does not call for any interference by this Court.

5.Heard both parties.

6.It is not in dispute that the petitioner is eligible to be considered for promotion in the light of G.O.Ms.No.1120, dated 30.10.1984, as he is above 53 years and has failed in the Departmental Examination for five attempts. However, such exception can be given only if he fulfills the condition stipulated in Rule 5 of the Special Rules for Tamil Nadu State Treasury and Accounts Service mentioned supra, that has prescribed qualification for promotion as Class III Officer (Accounts Officer) from the cadre post of Assistant Accounts Officer (Class IV), which reads as follows:-

"The petitioner has passed the Departmental Test for Subordinate Officers of Treasuries and Accounts Department and Accountancy Lower Grade. The petitioner has not passed either Accountancy Higher Grade Examination or B.Com., to qualify for promotion to the higher post of Accounts Officer

(Class III Officer) which has been prescribed in the said Special Rules. As per G.O.Ms.No.1120 Personnel and Administrative Reforms Department dated 30.10.1984 exemption from passing of examination is given only in respect of examinations of Special and Departmental tests conducted by the Tamil Nadu Public Service Commission and therefore the request of the petitioner for inclusion in the panel of Accounts Officer (Class III Officer) was not considered and could not be recommended to the Departmental Promotion for promotion of Accounts Officer (Class III Officers)."

7. Admittedly, the petitioner has not passed the Accountancy Higher Grade Examination and does not possess B.Com., Degree. As the petitioner has not fulfilled the condition mentioned in the Special Rules, ignoring the Special Rules, the petitioner cannot be granted the benefit of G.O.Ms.No.1120, dated 30.10.1984.

8. The Government Order mentioned supra is in addition to Rule 5 extracted above, which clearly lays down a condition that it is mandatory to adhere to the other conditions of Rule 5 for consideration of promotion. In this case, as the petitioner has not fulfilled the condition stipulated in Rule 5, the condition stipulated in G.O.Ms.No.1120, dated 30.10.1984 will not inure to the benefit of the petitioner to grant the relief.

9. Hence, finding no merit in this writ petition, the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

abr

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Fort St., George, Chennai-600 009.
2. The Commissioner of Treasuries & Accounts,
'Panagal Building', Saidapet,
Chennai-600 015.

WEB COPY

+lcc to Mr.P.Haribabu Advocate, S.R.No.63671
+lcc to the Government Pleader, S.R.No.64687

RR(CO)
CB(19/09/2019)

W.P.No.663 of 2013



WEB COPY