

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Appeal No.1030 of 2013 and
M.P.No.1 of 2013

Special Secretary to Government,
Finance (T&A-I) Department,
Fort St. George,
Secretariat, Chennai - 9 ...Appellant/Respondent

.Vs.

S.Aiyappan Pillai
Assistant treasury Officer,
Sub Treasury, Sankarapuram,
Villupuram District
Now Personal Assistant
(Accounts) to Collector (Retd.,)
Tuticorin. ...Respondent/Petitioner

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 23.11.2011 made in W.P.No.8692 of 2006 .

W.P.No.8692 of 2006:- To call for the records relating to the order of the Respondent herein passed in his G.O.(2D) No. 54 Finance (T&A-I) Department dated 5.6.2002 rejecting the petitioners request for inclusion of his name in the panel of Superintendents fit for promotion as Assistant Accounts Officer drawn for the year 1998-99 and quash the same and consequentially direct the respondent herein to include the petitioners name in the panel of Assistant Accounts Officer drawn for the year 1998-99 with due seniority and consequentially direct the respondent herein to promote the petitioner as Assistant Section Officer with effect from the date of promotion of his immediate Junior with all consequential Monetary and service benefits.

For Appellant : Mrs.A.Srijayanthi
Spl. Government Pleader

For Respondent : No appearance

J U D G M E N T

(Judgment of the Court was made by K.K.SASIDHARAN, J.,)

The Government of Tamilnadu granted relaxation to the Superintendents in the Treasuries and Accounts Department and promoted them as Assistant Accounts Officer in the year 1998-1999. However, the respondent was not given promotion on the ground that he has not passed the accountancy higher grade, which was a pre-requisite for promotion. When a challenge was made, the Writ Court allowed the writ petition primarily on the ground that the similarly placed employees were given relaxation and as such, the respondent ought to have been given relaxation. The order passed by the learned single Judge is under challenge at the instance of the State.

2. The learned Special Government Pleader contended that there was no relaxation in the matter of educational qualification and only the working experience of five years was relaxed. According to the learned Special Government Pleader, the respondent has not passed the Accountancy Higher Grade and as such, he was not eligible for promotion.

3. The factual matrix indicates that the Government prepared a panel for promotion to the post of Assistant Accounts Officer for the year 1998-1999. The crucial date was on 15.06.1998. Neither the respondent nor his juniors were eligible for promotion. The appellant found the respondent not eligible, as he has not passed the Accountancy Higher Grade. His Juniors were not found eligible, as they have not completed five years, as Superintendent.

4. However, very strangely, after promoting the Juniors by order dated 15.05.1999, relaxation was given to them by issuing an order in G.O.[Ms].No.93 Finance (Treasuries and Accounts-I) Department dated 05.03.2001. Therefore, it was a case of giving promotion at the first instance without meeting the eligibility criteria and thereafter, relaxing the condition.

5. The appellant has come up with a contention that there was no relaxation in the matter of educational qualification. The completion of five years of service as Superintendent is also part of eligibility criteria. The said criteria was not followed in the case of juniors. The juniors have given relaxation and they were given a march over seniors.

6. The learned single Judge was therefore fully justified in allowing the Writ Petition. We do not find any reason to take a different view in the matter.

7. The Intra-Court appeal is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

ssd

Sd/-
Assistant Registrar(C.O)

//True Copy//

Sub Assistant Registrar

To

1. The Special Secretary to Government,
Finance (T&A-I), Department,
Fort St.George,
Chennai - 9.

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M.P.No.1 of 2013

Kak(10/09/2019)



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