



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.No.19956 of 2019

and

WMP.No.19460 of 2019

P.Vasanthakumari

... Petitioner

Vs

1. The Secretary to Government.
Tamil Development & Information Department,
Fort St.George, Chennai- 600 009.

2. The Director,
Tamil Development Directorate,
Tamilsalai, Egmore,
Chennai-600008.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ or order or direction more particularly a Writ of Certiorarified Mandamus by calling for the records relating to the first respondent herein in Government Letter No.13643/T.D.2-1/2018-2 dated 01.10.2018 and quash the same and consequently direct the respondents herein to confer relaxation of promotional qualification to the petition as conferred to similarly situated person Mr.G.Saravanan and confer the post of Assistant Director or in the alternative direct the first respondent to formulate scheme providing promotion for the Superintendent post and pass order conferring the post of Assistant Director within a reasonable time.

For Petitioner : Mr.R.S.Anandan
For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

This Writ Petition has been filed for the issuance of Certiorarified Mandamus, calling for the records relating to the first respondent herein in Government Letter No.13643/T.D.2-1/2018-2 dated 01.10.2018 and quash the same and consequently direct the respondents herein to confer relaxation of promotional qualification to the petition as conferred to



similarly situated person Mr.G.Saravanan and confer the post of Assistant Director or in the alternative direct the first respondent to formulate scheme providing promotion for the Superintendent post and pass order conferring the post of Assistant Director within a reasonable time.

2. The case of the petitioner is that the petitioner is working as Superintendent in the Tamil Development Department. There is no avenue of promotion available after the post of Superintendent. Though the Recruitment Rules provide for recruitment by transfer of service from the post of Superintendent of Tamil Nadu Development by recruitment by transfer the service, higher Education qualification has been prescribed as pass in Degree with Tamil as one of the part. Thereby, Superintendent working in Department are affected as there is no direct avenue of promotion after reaching the Superintendent post. Whereas, in other departments avenue of promotion is available and therefore, the same not only discrimination but also denial further avenue or opportunity to proceed further in the hierarchy. Further while making recruitment by transfer of service one of the officials was granted exemption in regard to education qualification and conferred with the higher post. The petitioner also submitted a representation to extend such benefits and the same has been rejected as per the impugned order dated 01.10.2018. Against which, the petitioner submitted an appeal on 04.10.2018 but, no order has been passed on the same. Hence this Writ Petition.

3. Learned Special Government Pleader appearing for the respondents would submit that as against the rejection order dated 01.10.2018, the petitioner preferred an appeal before the first respondent and the same is not maintainable.

4. Considering the facts and circumstances and since the petitioner preferred an appeal before the same authority who already passed the rejection order, the appeal is not maintainable. Therefore, this Court feels it appropriate to direct the petitioner to make review application, as regards rejection order, before the first respondent and the same would be considered and dispose of by the first respondent.

5. Accordingly, without going into merits of the case, the petitioner is directed to make review application before the first respondent as against the rejection order dated 01.10.2018 within a period of four weeks from the date of receipt of a copy of this order and as such, review application is being filed, the first respondent is directed to consider the same and pass appropriate orders in accordance with law and on merits, after affording opportunity to the petitioner within a period of eight weeks, thereafter.



6. This Writ Petition is disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

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-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government.
Tamil Development & Information Department,
Fort St.George, Chennai- 600 009.
2. The Director,
Tamil Development Directorate,
Tamilsalai, Egmore,
Chennai-600008.

+1 CC to The Govt. Pleader sr 86892.
+1 CC to Mr.R.S.Anandan, Advocate sr 86369.

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SP(16/12/2019)