



WEB COPY

W.P.(MD) No.11514, 11515, 11516, 676 of 2019,
19524 of 2014, 5843 of 2018 &
Cont.P.(MD).No.279 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.11514 of 2019

and

W.M.P. (MD) Nos.8781 & 8782 of 2019

and

W.P. (MD) No.11515 of 2019

and

W.M.P. (MD) Nos.8783 & 8784 of 2019

and

W.P. (MD) No.11516 of 2019

and

W.M.P. (MD) Nos.8785 & 8786 of 2019

and

W.P. (MD) No.676 of 2019

and

W.M.P. (MD) Nos.576 & 577 of 2019

and

W.P. (MD) No.19524 of 2014

and

M.P. (MD) Nos.1 & 2 of 2014

and

W.M.P. (MD) Nos.7941, 7942 & 8040 of 2019

and

W.P. (MD) No.5843 of 2018

and

W.M.P. (MD) Nos.5714 & 5715 of 2018

and

Cont.P. (MD) No.279 of 2019

in

W.M.P. (MD) No.2 of 2014

in

W.P. (MD) No.19524 of 2014

W.P. (MD) No.11514 of 2019:

A.Raman

... Petitioner

vs.

1.The Secretary to Government
Tourism Culture and Religious
Endowment Department
Secretariat, Chennai-600 009

2.The Commissioner of Tourism
Tamil Nadu Tourism Complex
Wallajah Road, Chennai-600 002

<https://hcservices.ecourts.gov.in/hcservices/>



3.N.Anbarasu

4.L.Muthusamy

5.M.Mani

6.A.Sankar

7.E.Baskaran

8.B.Elamurugan

9.R.Karthik

... Respondents

[R3 impleaded vide order dated 16.08.2019 in W.M.P.(MD) No.9919 of 2019 & R4 to R9 impleaded vide order dated 16.08.2019 in W.M.P.(MD) No.12633 of 2019]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the impugned order of the 1st respondent issued in G.O.(Ms).No.42 TC & RE(T2) Department dated 12.04.2019 and quash the same and consequently direct the 1st respondent to consider the name of the petitioner for promotion as Assistant Director of Tourism, as on 01.09.2017 the date of preparation of the panel for the year 2017-2018 which is under consideration of the 1st respondent, pending disposal of the above writ petition.

For Petitioner : Ms.A.L.Gandhimathi
 For Respondents 1 & 2 : Mr.K.Chellapandian
 Additional Advocate General
 assisted by Mr.D.Muruganandham
 Additional Government Pleader

For 3rd Respondent : Mr.T.Lajapathi Roy

For Respondents 4 to 9 : Mr.G.R.Satish

W.P. (MD) No.11515 of 2019:

M.Rajan

... Petitioner

vs.

1.The Secretary to Government
 Tourism Culture and Religious
 Endowment Department
 Secretariat, Chennai-600 009



2.The Commissioner of Tourism
Tamil Nadu Tourism Complex
Wallajah Road, Chennai-600 002

3.N.Anbarasu

4.L.Muthusamy

5.M.Mani

6.A.Sankar

7.E.Baskaran

8.B.Elamurugan

9.R.Karthik

... Respondents

[R3 impleaded vide order dated
16.08.2019 in W.M.P.(MD) No.9920 of
2019 & R4 to R9 impleaded vide order
dated 16.08.2019 in W.M.P.(MD)
No.12627 of 2019]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the impugned order of the 1st respondent issued in G.O.(Ms).No.42 TC & RE Department dated 12.04.2019 and quash the same and consequently direct the 1st respondent to permit the petitioner to continue in the post of Tourist Officer, pending disposal of the above writ petition.

For Petitioner : Ms.A.L.Gandhimathi

For Respondents 1 & 2 : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.D.Muruganandham
Additional Government Pleader

For 3rd Respondent : Mr.T.Lajapathi Roy

For Respondents 4 to 9 : Mr.G.R.Satish



W.P. (MD) No.11516 of 2019:

S.Rajaram

... Petitioner

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vs.

- 1.The Secretary to Government
Tourism Culture and Religious
Endowment Department
Secretariat, Chennai-600 009
- 2.The Commissioner of Tourism
Tamil Nadu Tourism Complex
Wallajah Road, Chennai-600 002
- 3.N.Anbarasu
- 4.L.Muthusamy
- 5.M.Mani
- 6.A.Sankar
- 7.E.Baskaran
- 8.B.Elamurugan

9.R.Karthik

... Respondents

[R3 impleaded vide order dated
16.08.2019 in W.M.P.(MD) No.9921 of
2019 & R4 to R9 impleaded vide order
dated 16.08.2019 in W.M.P.(MD)
No.12629 of 2019]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the impugned order of the 1st respondent issued in G.O.(Ms).No.42 TC & RE Department dated 12.04.2019 and quash the same and consequently direct the 1st respondent to permit the petitioner to continue in the post of Tourist Officer, pending disposal of the above writ petition.

For Petitioner : Ms.A.L.Gandhimathi

For Respondents 1 & 2 : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.D.Muruganandham
Additional Government Pleader



For 3rd Respondent : Mr.T.Lajapathi Roy

For Respondents 4 to 9 : Mr.G.R.Satish

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W.P. (MD) No.676 of 2019:

N.Anbarasu

... Petitioner

vs.

- 1.The Principal Secretary
Tourism Culture and Religious
Endowments (T2) Department
Fort St.George, Chennai-9
- 2.The Commissioner of Tourism
Tamilnadu Tourism Complex
Wallajah Road, Chennai-2
- 3.The Additional Director of Tourism
Tamilnadu Tourism Complex
Wallajah Road, Chennai-2
- 4.S.Bhakthavatchalam
- 5.A.Raman

6.S.Rajaram ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 1st and 2nd Respondents to initiate an enquiry proceeding and take appropriate legal action against the Respondents 4 to 6 and remove the 5th and 6th Respondents from the proposed seniority list of the year 2018 to the post of Assistant Director and Tourism Officer respectively as the 5th and 6th Respondents are not qualified persons and direct the 1st and 2nd Respondents to prepare a fresh penal of seniority list for the post of Tourism Officer from the year 2011.

For Petitioner : Mr.M.Karthikeya Venkatachalapathy
For Respondents 1 to 3 : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.D.Muruganandham
Additional Government Pleader

For 4th Respondent : No appearance

For Respondents 5 & 6 : Mr.T.Ranganathan



W.P. (MD) No.19524 of 2014:

N.Anbarasu

... Petitioner

vs.

1.The Secretary
Tourism and Culture Department
Fort St.George, Chennai-9

2.The Commissioner of Tourism
Tamilnadu Tourism Complex
Wallajah Road, Chennai-2

3A.Raman

4.G.Sukumar

5.P.Vijayalakshmi

6.M.Rajan

7.S.Rajaram

8.T.R.Suresh

... Respondents

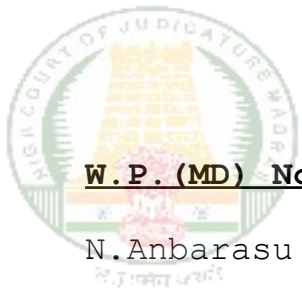
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus call for the records relating to impugned G.O.Ms.No.78 Tourism and Culture (SU2) Department, dated 07.05.2008 and quash the same and direct the respondent not to consider the office Superintendents for promotion for filling the existing and future vacancies in the cadre of Tourist officer.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents 1 & 2 : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.D.Muruganandham
Additional Government Pleader

For Respondents 3, 4, 5 & 8 : No appearance

For Respondents 6 & 7 : Ms.AL.Ganthimathi



W.P. (MD) No.5843 of 2018:

N.Anbarasu

... Petitioner

vs.

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1.The Principal Secretary
Tourism, Culture &
Religious Endowments (T2) Department
Fort St.George, Chennai-9

2.The Commissioner of Tourism
Tamilnadu Tourism Complex
Wallajah Road, Chennai-600 002

3.A.Raman

4.P.Vijayalakshmi

5.M.Rajan

6.S.Rajaram

7.T.R.Suresh

8.S.Anand

9.Manimehalai

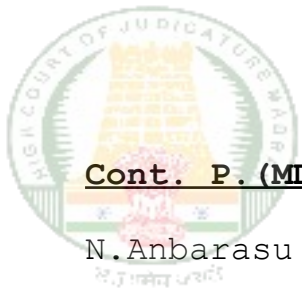
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari to call for the records pertaining to the impugned orders in G.O.(D) No.14 dated 23.01.2016, G.O.(D) No.126 and 127 dated 02.09.2016 and G.O.(Ms) No.224 dated 16.10.2017 of Tourism, Culture and Religious Endowments (T2) Department, on the file of Respondent No.1, and quash the same as illegal within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents 1 & 2 : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.D.Muruganandham
Additional Government Pleader

For Respondents 3 to 9 : No appearance



Cont. P. (MD) No.279 of 2019:

N.Anbarasu

... Petitioner

vs.

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1.Apurva Varma, I.A.S.
Secretary
Tourism and Culture Department
Fort St.George
Chennai-600 009

2.V.Palanikumar, I.A.S.
Commissioner of Tourism
Tamilnadu Tourism Complex
Wallajah Road
Chennai-600 002

... Respondents

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to initiate contempt proceedings against the Contemnors / Respondents and punish them for the willful disobedience of the order of this Court, dated 03.12.2014, passed in M.P.(MD) No.2 of 2014 in W.P.(Md) No.19524 of 2014.

Prayer in MP(MD). 2/ 2014 in WP(MD).19524/2014 :

To direct the respondent not to consider the office superintendent for promotion as Tourist Officer pending disposal of the main WP.(MD).No.19524/2014.

Prayer in WP(MD). 19524/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, call for the records relating to impugned G.O.Ms.No.78 Tourism and Culture (SU2) Department, dated 07.05.2008 and quash the same and direct the respondent not to consider the office Superintendents for promotion for filling the existing and future vacancies in the cadre of Tourist officer and granting such other further reliefs.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.D.Muruganandham
Additional Government Pleader



C O M M O N O R D E R

W.P. (MD) No.19524 of 2014:

The Government Order issued in G.O.(Ms) No.78, Tourism and Culture (SU2) Department, dated 07.05.2008, is under challenge in W.P.(MD) No.19524 of 2014 and further direction is sought for to direct the official respondents not to consider the Office Superintendents for promotion in order to fill-up the existing and future vacancies in the cadre of Tourist Officer.

2. In this regard, it is brought to the notice of this Court that the impugned G.O.(Ms) No.78, Tourism and Culture (SU2) Department, dated 07.05.2008 is no more in force, as the Government has issued subsequent order in G.O.Ms.No.174, Tourism and Culture (T2) Department, dated 06.08.2010, amending the Special Rules for promotion to the post of Tourist Officer. The Government Order categorically states that the amendments issued in G.O.Ms.No.174, Tourism and Culture (T2) Department, dated 06.08.2010 are superseding the earlier Government Order in G.O.Ms.No.78, Tourism and Culture (SU2) Department, dated 07.05.2008. Thus, the impugned Government Order in G.O.Ms.No.78, Tourism and Culture (SU2) Department, dated 07.05.2008, even as on date of filing of the present writ petition (W.P.(MD) No.19524 of 2014), was not in force and the Special Rules were amended subsequently and the amended Rules were published in G.O.Ms.No.174, Tourism and Culture (T2) Department, dated 06.08.2010.

3. This being the factum, the writ petition (W.P.(MD) No.19524 of 2014) deserves no merit consideration. The writ petitioner has challenged the Government Order, which was not in force on the date of filing of the present writ petition (W.P.(MD) No.19524 of 2014). In view of the fact that subsequent Rules are not challenged, no further consideration is required in this writ petition (W.P.(MD) No.19524 of 2014).

Cont.P. (MD) No.279 of 2019:

4. Cont.P.(MD) No.279 of 2019 is filed to punish the contemnors for wilful disobedience of the order of this Court, dated 03.12.2014, passed in M.P.(MD) No.2 of 2014 in W.P.(MD) No.19524 of 2014.

5. It is contended that the prayer sought for in W.P.(MD) No.19524 of 2014 itself deserves no merit consideration on account of the fact that the Government Order, which is under challenge in the main writ petition i.e. W.P.(MD) No.19524 of 2014, was not in force even at the time of filing of the writ petition (W.P.(MD) No.19524 of 2014).

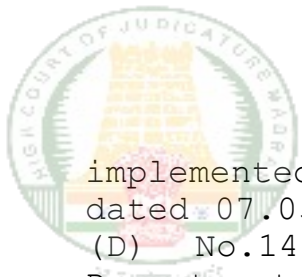


W.P. (MD) No.5843 of 2018:

6. The Government Orders issued in G.O.(D) No.14, Tourism, Culture and Religious Endorsements (T2) Department, dated 23.01.2016; G.O.(D) No.126, Tourism, Culture and Religious Endowments (T2) Department, dated 02.09.2016; G.O.(D) No.127, Tourism, Culture and Religious Endowments (T2) Department, dated 02.09.2016 and G.O.(Ms) No.224, Tourism, Culture and Religious Endowments (T2) Department, dated 16.10.2017, are sought to be quashed in W.P.(MD) No.5843 of 2018.

7. The writ petitioner in W.P.(MD) No.5843 of 2018 states that he joined as Assistant Tourist Officer and presently, he is working in the Tourist Office, Madurai. He acquired qualification of M.T.M. (Master of Tourism Management), M.Phil., and also Diploma in Computer Application. Thus, he is fully qualified for appointment to the post of Tourist Officer. He states that the post of Assistant Tourist Officer is the feeder category for the post of Tourist Officer. As of now, 51 Assistant Tourist Officers in the State are functioning under the control of the Commissioner of Tourism. There are five Office Superintendents functioning in the Office of the Commissioner of Tourism. It is contended that the post of Office Superintendent is not a feeder category for the post of Tourist Officer. The post of Office Superintendent is coming under the Ministerial Service and it is a promotional post to the post of Assistant. Thus, the persons working in the cadre of Office Superintendent are not eligible for promotion to the post of Tourist Officer. The authorities competent knowing the fact that the post of Officer Superintendent is not a feeder category to the post of Tourist Officer issued G.O.(Ms) No.78, Tourism and Culture (Su.2) Department, dated 07.05.2008, prescribing the ratio for promotion between the post of Office Superintendent and the post of Tourist Officer in the ratio of 1:3:1. Accordingly, when one post of Office Superintendent is appointed, three persons have to be promoted as District Tourist Officer from the post of Assistant Tourist Officer and one another post has to be filled-up by direct recruitment from the open competition.

8. The writ petitioner in W.P.(MD) No.5843 of 2018 further states that there cannot be any ratio between the persons working in the ministerial service, like, Office Superintendent and the persons working in the technical and executive service, like, Assistant Tourist Officer. Thus, he filed a writ petition in W.P.(MD) No.19524 of 2014 before this Court challenging G.O.(Ms) No.78, Tourism and Culture (Su.2) Department, dated 07.05.2008. In the said writ petition, an order of status quo was passed by this Court on 03.12.2014. However, the Principal Secretary, Tourism, Culture & Religious Endowments (T2) Department / first respondent had



implemented G.O.(Ms) No.78, Tourism and Culture (Su.2) Department, dated 07.05.2008 and issued the impugned Government Orders in G.O.(D) No.14, Tourism, Culture and Religious Endorsements (T2) Department, dated 23.01.2016; G.O.(D) No.126, Tourism, Culture and Religious Endowments (T2) Department, dated 02.09.2016; G.O.(D) No.127, Tourism, Culture and Religious Endowments (T2) Department, dated 02.09.2016 and G.O.(Ms) No.224, Tourism, Culture and Religious Endowments (T2) Department, dated 16.10.2017.

9. Vide G.O.(D) No.14, Tourism, Culture and Religious Endorsements (T2) Department, dated 23.01.2016, Mr.A.Raman, Office Superintendent, was temporarily appointed as Tourist Officer and posted to Delhi. Vide G.O.(D) No.126, Tourism, Culture and Religious Endowments (T2) Department, dated 02.09.2016, Mr.M.Rajan, Office Superintendent, was temporarily appointed as Tourist Officer and vide G.O.(D) No.127, Tourism, Culture and Religious Endowments (T2) Department, dated 02.09.2016, Mr.S.Rajaram, Office Superintendent, was temporarily appointed as Tourist Officer and posted to Chennai. G.O.(Ms) No.224, Tourism, Culture and Religious Endowments (T2) Department, dated 16.10.2017, was issued by the Principal Secretary, Tourism, Culture & Religious Endowments (T2) Department / first respondent, regularizing the services of 56 Tourist Officers, out of whom, five Tourist Officers were from the cadre of Office Superintendent. Thus, the promotion from the post of Office Superintendent to the post of Tourist Officer is liable to be quashed.

W.P. (MD) No.676 of 2019:

10. The relief sought for in W.P.(MD) No.676 of 2019 is for a direction to the respondents 1 and 2 / the Principal Secretary, Tourism Culture and Religious Endowments (T2) Department and the Commissioner of Tourism to initiate enquiry proceedings and take appropriate legal action against the respondents 4 to 6 and remove the respondents 5 and 6 from the proposed seniority list of the year 2018 to the post of Assistant Director and Tourism Officer respectively, as they are not qualified for appointment to the post of Tourist Officer and thereafter, prepare a fresh seniority panel for promotion to the post of Tourist Officer.

11. The present writ petition (W.P.(MD) No.676 of 2019) is also filed mainly on the ground that the respondents 5 and 6, namely, Mr.A.Raman and Mr.S.Rajaram, are not qualified for promotion to the post of Tourist Officer. Thus, an enquiry should be conducted and accordingly, a fresh seniority panel is to be prepared.

12. At the outset, the writ petitioner in W.P.(MD) No.676 of 2019 submits that an enquiry is to be conducted in respect of the



illegal promotions promoting the respondents 5 and 6, namely, Mr.A.Raman and Mr.S.Rajaram, who all are not qualified for promotion to the post of Tourist Officer.

W.P. (MD) No.11514 of 2019:

13. The writ petition in W.P.(MD) No.11514 of 2019 is filed by Mr.A.Raman, Tourist Officer, to quash the Government Order in G.O.(Ms) No.42, Tourism, Culture and Religious Endowments (T2) Department, dated 12.04.2019 and consequently, to direct the Secretary to Government, Tourism, Culture and Religious Endowment Department / first respondent to consider him for promotion as Assistant Director of Tourism, as on 01.09.2017.

14. The writ petitioner in W.P.(MD) No.11514 of 2019 states that he was appointed as Junior Assistant on 22.02.1993. He was promoted as Assistant on 15.02.1996 and Superintendent on 06.11.2000. He was considered for promotion to the post of Tourist Officer and accordingly, he was promoted on 23.01.2016 and posted at New Delhi and is continuing in the said post as of now.

W.P. (MD) No.11515 of 2019:

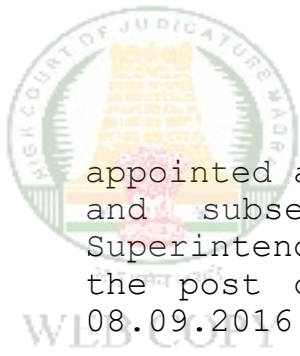
15. The writ petition in W.P.(MD) No.11515 of 2019 is filed by Mr.M.Rajan, Tourist Officer, to quash the Government Order in G.O.(Ms) No.42, Tourism, Culture and Religious Endowments (T2) Department, dated 12.04.2019 and consequently, to direct the Secretary to Government, Tourism, Culture and Religious Endowment Department / first respondent to permit him to continue in the post of Tourist Officer.

16. The writ petitioner in W.P.(MD) No.11515 of 2019 was appointed as Typist on 30.03.1984 and subsequently, promoted as Assistant on 25.06.1996 and Superintendent on 09.12.2009. He was considered for promotion to the post of Tourist Officer and accordingly, he was promoted on 08.09.2016 and posted at Ooty and is continuing in the said post as of now.

W.P. (MD) No.11516 of 2019:

17. The writ petition in W.P.(MD) No.11516 of 2019 is filed by Mr.S.Rajaram, Tourist Officer, to quash the Government Order in G.O.(Ms) No.42, Tourism, Culture and Religious Endowments (T2) Department, dated 12.04.2019 and consequently, to direct the Secretary to Government, Tourism, Culture and Religious Endowment Department / first respondent to permit him to continue in the post of Tourist Officer.

18. The writ petitioner in W.P.(MD) No.11516 of 2019 was



appointed as Junior Assistant on 22.08.1994 on compassionate grounds and subsequently, promoted as Assistant on 02.11.1998 and Superintendent on 20.07.2011. He was considered for promotion to the post of Tourist Officer and accordingly, he was promoted on 08.09.2016 and is continuing in the said post as of now.

19. The writ petitioners in W.P.(MD) Nos.11514, 11515 and 11516 of 2019, namely, Mr.A.Raman, Mr.M.Rajan and Mr.S.Rajaram respectively, have mainly relied upon G.O.Ms.No.78, Tourism and Culture (SU2) Department, dated 07.05.2008, wherein the mode of appointment by way of transfer of service from the post of Office Superintendent was contemplated and the ratio of 1:3:1 was also fixed for promotion to the post of Tourist Officer. Accordingly, they were promoted as Tourist Officer. Subsequently, a policy decision was taken by the Government and an amendment was effected in the Special Rules to the post of Tourist Officer in G.O.Ms.No.174, Tourism and Culture (T2) Department, dated 06.08.2010. The amendment is the policy decision of the Government and therefore, the same cannot be challenged by the individuals, unless it is proved as unconstitutional.

20. The impugned G.O.(Ms) No.42, Tourism, Culture and Religious Endowments (T2) Department, dated 12.04.2019, is a reversion order reverting the writ petitioners in W.P.(MD) Nos.11514, 11515 and 11516 of 2019, namely, Mr.A.Raman, Mr.M.Rajan and Mr.S.Rajaram respectively, from the post of Tourist Officer to post of Office Superintendent. Justifying the promotion orders issued to them to the post of Tourist Officer, they contended that they are fully qualified for promotion to the post of Tourist Officer and the Rule in this regard was amended and therefore, their promotion was in accordance with the amended Rules and therefore, there is no infirmity and therefore, the order of reversion is liable to be set aside and they must be allowed to continue in the post of Tourist Officer.

DISCUSSION:

21. Considering the entire facts in relation to all these writ petitions, it is pertinent to note that Mr.N.Anbarasu has filed three writ petitions, namely, W.P.(MD) No.19524 of 2014, 5843 of 2018 and 676 of 2019.

22. The first writ petition i.e.W.P.(MD) No.19524 of 2014 was filed challenging the Government Order in G.O.(Ms) No.78, Tourism and Culture (Su2) Department, dated 07.05.2008. The second writ petition i.e. W.P.(MD) No.5843 of 2018 was filed challenging the order of promotion granted in favour of Mr.A.Raman, Mr.M.Rajan and Mr.S.Rajaram vide G.O.(D) No.14, Tourism, Culture and Religious Endorsements (T2) Department, dated 23.01.2016; G.O.(D) No.126, Tourism, Culture and Religious Endowments (T2) Department, dated



02.09.2016 and G.O.(D) No.127, Tourism, Culture and Religious Endowments (T2) Department, dated 02.09.2016 as well as G.O.(Ms) No.224, Tourism, Culture and Religious Endowments (T2) Department, dated 16.10.2017, regularizing the services of 56 Tourist Officers. The third writ petition i.e.W.P.(MD) No.676 of 2019 was filed for a direction to the Principal Secretary, Tourism Culture and Religious Endowments (T2) Department and the Commissioner of Tourism / respondents 1 and 2 to conduct an enquiry and initiate appropriate legal action against the persons, who were promoted from the post of Office Superintendent to the post of Tourist Officer.

23. The learned counsel appearing on behalf of the writ petitioner in all these three writ petitions mainly contended that the post of Office Superintendent is not the feeder category for promotion to the post of Tourist Officer. The post of Office Superintendent is coming under the Ministerial Service. The post of Tourist Officer is a technical post having distinct educational qualifications. Thus, providing a quota for promotion to the post of Tourist Officer from the post of Office Superintendent is against the common promotion rules and unequal persons are treated equally in the matter of grant of promotion to the post of Tourist Officer. Such an inconsistency in the matter of promotion was created in order to favour few persons working in the cadre of Office Superintendent. Thus, the impugned Government Orders are to be scrapped.

24. The learned counsel appearing on behalf of the contesting respondents made a submission that all these respondents, who have filed separate writ petitions challenging the order of reversion, which was issued during the pendency of W.P.(MD) No.19524 of 2014, are fully qualified for promotion to the post of Tourist Officer. The very Government order issued in G.O.Ms.No.78, Tourism and Culture (Su2) Department, dated 07.05.2008, is not in force. The said Government Order was superseded and subsequently, an amendment to the Special Rules was issued in G.O.Ms.No.174, Tourism and Culture (T2) Department, dated 06.08.2010. Thus, the writ petition in W.P.(MD) No.19524 of 2014 itself is untenable.

25. The said writ petition (W.P.(MD) No.19524 of 2014) is filed challenging the Government Order, which was not in force even at the time of filing the same and an interim order was granted by this Court and pursuant to the said interim order, the contesting respondents, namely, Mr.S.Rajaram, Mr.M.Rajan and Mr.A.Raman were reverted to the post of Office Superintendent. The order of reversion itself is unsustainable, when the rules were amended in G.O.Ms.No.174, Tourism and Culture (T2) Department, dated 06.08.2010, by taking a policy decision by the Government and pursuant to the amended rules, the contesting respondents were promoted, there is no reason whatsoever to revert the contesting



respondents once again to the post of Office Superintendent. Thus, these three writ petitions i.e. W.P.(MD) No.19524 of 2014, 5843 of 2018 and 676 of 2019 filed by Mr.A.Anbarasu are to be dismissed and the writ petitions filed by Mr.A.Raman, Mr.M.Rajan and Mr.S.Rajaram in W.P.(MD) Nos.11514, 11515 & 11516 of 2019 respectively are to be allowed.

26. The learned Additional Advocate General appearing for the official respondents made a submission that promotions were granted in accordance with the amended Rules in force. The panel of eligible persons fit for promotion to the post of Tourist Officer was properly prepared. The educational certificates produced by the respective employees were considered and the genuinity of those certificates were also verified by the authorities competent. Thus, there was no irregularity in the matter of promotion granted to the contesting respondents to the post of Tourist Officer and therefore, the writ petitions filed by Mr.N.Anbarasu are to be dismissed.

27. The learned counsel for the writ petitioner in W.P.(MD) No.19524 of 2014 raised a ground that the promoted candidates / contesting respondents are not qualified and not possessing a valid degree and therefore, the very promotion granted to them to the post of Tourist Officer is liable to be set aside. The degree possessed by these candidates are invalid as per the Government Orders in force and as per the Judgment of the Honourable Supreme Court in the case of Annamalai University vs. Secretary to Government, Information and Tourism Department, reported in (2009) 4 SCC 590. Thus, the promotions granted based on the invalid degrees cannot be sustained and the writ petition W.P.(MD) No.5843 of 2018 filed challenging the promotional orders is to be allowed.

28. The learned counsel appearing for the contesting respondents opposed the above contentions by stating that the genuinity of the degrees obtained by the contesting respondents was verified by the competent authorities and necessary entries were made in their service registers and there was no irregularity or illegality in the matter of ascertaining the genuinity of the degrees obtained by the contesting respondents.

29. The learned Additional Advocate General appearing for the official respondents though contented that the genuinity of the degrees obtained by the contesting respondents has been verified, when this Court put a question whether the validity of the certificates was verified or not, the learned Additional Advocate General fairly conceded that no such efforts had been taken by the competent authorities.

30. This Court is of the considered opinion that it is not only necessary for the purpose of ascertaining the genuinity of the



certificates issued by various Universities across the country, but, it is just and necessary to verify the validity of the degrees conferred by the Universities. The Universities across the country are issuing invalid degrees, which all are not in consonance with U.G.C.Regulations. The University Grants Commission is also not initiating actions in order to curb these Universities from issuing such invalid degrees in violation of U.G.C.Regulations.

31. The Honourable Supreme Court of India has elaborately adjudicated this issue in the case of Annamalai University (cited supra) and held that the degrees obtained through Open University system are invalid. Thus, the degrees obtained through the regular pattern of education i.e.10+2+3 prescribed by the University Grants Commission in its regulation alone are to be considered as valid degrees for public appointments and promotions. The competent authorities, while considering the cases for appointment as well as for promotion, must ensure that the degree certificates produced by the respective candidates are not only genuine, but also valid with reference to the Government Orders in force, which were issued based on the guidelines issued by the Honourable Supreme Court as well as U.G.C.Regulations. The Judgment of the Honourable Supreme Court in the case of Annamalai University (cited supra) was implemented by the Government of Tamil Nadu. The Government of Tamil Nadu also issued various Government Orders to ensure that the employees, who are possessing valid degrees, alone are appointed or promoted to the higher posts. In the present case on hand, though the genuinity of the degrees obtained by the contesting respondents was verified by the authorities competent, the validity of the degrees obtained by them had not been tested before granting promotions.

32. The facts and circumstances of the writ petitions on hand reveal that the contesting respondents were promoted to the post of Tourist Officer based on the amended Special Rules. The amended Special Rules issued in G.O.Ms.No.174, Tourism and Culture (T2) Department, dated 06.08.2010, is not under challenge in any of the writ petitions. Thus, the validity of the amended Special Rules cannot be tested in these writ petitions. Thus, for all purposes, the Government Order issued in G.O.Ms.No.174, Tourism and Culture (T2) Department, dated 06.08.2010, is to be considered for the purpose of grant of promotion to the post of Tourist Officer. However, in W.P.(MD) No.19524 of 201, the writ petitioner Mr.N.Anbarasu has challenged G.O.(Ms) No.78, Tourism and Culture (Su2) Department, dated 07.05.2008, which was already superseded and no amendment petition has been filed in the said writ petition. The amendment of the Special Rules issued by the Government deserves no merit consideration and the validity of the said amendment in the Special Rules need not be tested in these writ petitions. However, the ground raised by Mr.Anbarasu is that the validity of the degrees possessed by the contesting respondents were not ascertained by the



competent authorities before granting promotion to the post of Tourist Officer. Though the learned counsel appearing on behalf of the contesting respondents made a submission that Mr.Anbarasu has not taken any plea in this regard, this Court is of the opinion that in a writ petition of this nature, the Court cannot shut its eyes in respect of certain vital facts placed before this Court at the time of advancing arguments. The Court must ensure that qualified persons alone are promoted and rules regarding promotions are strictly followed. Thus, the merits, if any raised, are to be adjudicated properly and the genuinity of the facts and circumstances is also to be weighed by the Court for the purpose of providing complete justice to the litigants, who all are approaching the Court of law. Certain hyper technical deficiencies cannot be a ground to reject a writ petition and the facts and circumstances of the case in its entirety are to be considered for the purpose of deciding such cases of promotions.

33. The learned Additional Advocate General fairly made a submission that the authorities competent have verified the genuinity of the certificates issued by the Universities. However, the competent authorities have not tested the validity of the degrees obtained by the contesting respondents. In view of the said submissions, it is necessary to ascertain the validity of the degrees possessed by the contesting respondents on account of the fact that the Government of Tamil Nadu implemented the Judgment of the Apex Court in the matter of accepting the validity of the degrees. Thus, the competent authorities, while undertaking the process of appointment or promotion, must ensure that the employees, who all are possessing the valid degrees, alone are appointed or promoted to the higher posts. Under these circumstances, it is necessary to review the entire promotions in view of the fact that the validity of the degrees possessed by these contesting respondents are not only tested by the competent authorities, even though the respondents are unable to establish the validity of the degrees before this Court. Further, this Court cannot go into the disputed facts in relation to the validity of the degrees and the said exercise is to be done by the competent authorities.

34. Under these circumstances, the following orders are passed:

(i) W.P.(MD) No.19524 of 2014 stands disposed of as infructuous as the impugned Government Order was not in force on the date of filing of the writ petition and subsequent amended Rules are not challenged.

(ii) W.P.(MD) No.5843 of 2018 stands allowed and the impugned Government Orders issued in G.O.(D) No.14, Tourism, Culture and Religious Endorsements



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(T2) Department, dated 23.01.2016; G.O.(D) No.126, Tourism, Culture and Religious Endowments (T2) Department, dated 02.09.2016; G.O.(D) No.127, Tourism, Culture and Religious Endowments (T2) Department, dated 02.09.2016 and G.O.(Ms) No.224, Tourism, Culture and Religious Endowments (T2) Department, dated 16.10.2017, are quashed.

(iii) In view of the orders passed in W.P.(MD) No.5843 of 2018, no further orders are required in W.P.(MD) No.676 of 2019 and accordingly, W.P.(MD) No.676 of 2019 stands closed.

(iv) Since the promotion orders of the writ petitioners in W.P.(MD) Nos.11514, 11515 & 11516 of 2019 have been quashed, the consequential reversion order is to be upheld. Accordingly, the Government Order in G.O.(Ms) No.42, Tourism, Culture and Religious Endowments (T2) Department, dated 12.04.2019, stands confirmed and the writ petitions in W.P.(MD) Nos.11514, 11515 & 11516 of 2019 stand dismissed.

(v) In view of quashing of the promotion orders, the official respondents 1 and 2 are directed to scrutinize the validity of the degrees possessed by all the eligible candidates, who all are found fit for promotion to the post of Tourist Officer and after ascertaining the validity of the degrees, approved panel shall be finalized and accordingly, promotions are directed to be granted to the post of Tourist Officer by following the procedures as expeditiously as possible. In the said exercise, the name of the writ petitioners as well as the contesting respondents are also to be considered for promotion strictly in accordance with the rules in force and after verifying the validity of the degrees possessed by them.

(vi) In view of the fact that the prayer sought for in W.P.(MD) No.19524 of 2014 itself deserves no merit consideration on account of the fact that the Government Order, which is under challenge in the main writ petition i.e. W.P.(MD) No.19524 of 2014, was not in force even at the time of filing of the writ petition (W.P.(MD) No.19524 of 2014), no further adjudication is required in respect of the grounds raised in Cont.P.(MD) No.279 of 2019. Accordingly, Cont.P.(MD) No.279 of 2019 stands



closed.

(vii) No costs.

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(viii) Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To:

- 1.The Principal Secretary,
Tourism Culture and Religious
Endowments (T2) Department,
Fort St.George, Chennai-9.
- 2.The Commissioner of Tourism,
Tamilnadu Tourism Complex,
Wallajah Road, Chennai-2.
- 3.The Additional Director of Tourism,
Tamilnadu Tourism Complex,
Wallajah Road, Chennai-2.
- 4.Mr.Apurva Varma, I.A.S.,
Secretary,
Tourism and Culture Department,
Fort St.George,
Chennai-600 009.
- 5.Mr.V.Palanikumar, I.A.S.,
Commissioner of Tourism,
Tamilnadu Tourism Complex,
Wallajah Road,
Chennai-600 002.
- 6.The Secretary to Government,
Tourism Culture and Religious
Endowments Department,
Secretariat, Chennai-9.

+1cc to Mr.S.Karthik, Advocate, SR.No.82375



+1cc to Mr.T.Lajapathi Roy, Advocate, SR.No.82403

+1cc to Mr.M.Karthikeya Venkatachalapathi, Advocate, SR.No.82038

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W.P. (MD) No.11514 of 2019
and
W.M.P. (MD) Nos.8781 & 8782 of 2019
and
W.P. (MD) No.11515 of 2019
and
W.M.P. (MD) Nos.8783 & 8784 of 2019
and
W.P. (MD) No.11516 of 2019
and
W.M.P. (MD) Nos.8785 & 8786 of 2019
and
W.P. (MD) No.676 of 2019
and
W.M.P. (MD) Nos.576 & 577 of 2019
and
W.P. (MD) No.19524 of 2014
and
M.P. (MD) Nos.1 & 2 of 2014
and
W.M.P. (MD) Nos.7941, 7942 & 8040 of
2019
and
W.P. (MD) No.5843 of 2018
and
W.M.P. (MD) Nos.5714 & 5715 of 2018
and
Cont.P. (MD) No.279 of 2019
in
W.M.P. (MD) No.2 of 2014
in
W.P. (MD) No.19524 of 2014

16.08.2019

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