



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.07.2019
CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

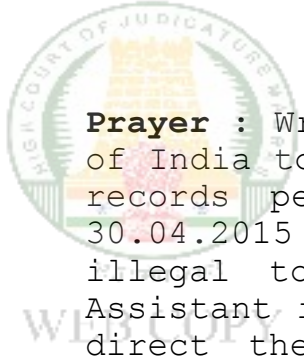
W.P(MD) .No.12422 of 2015
and
MP(MD) Nos.2 and 3 of 2015

WEB COPY

- 1.R.Jeya Ganesh,
Village Administrative Officer, (V.A.O)
Keelanedungulam Village,
Madurai North Taluk,
Madurai District.
- 2.R.Vijayalakshmi,
Village Administrative Officer, (V.A.O)
Kalkulam Village,
Madurai South Taluk,
Madurai District.
- 3.S.Kannika Parameshwari,
Village Administrative Officer, (V.A.O)
Villapuram Village,
Madurai South Taluk,
Madurai District.
- 4.B.Ramar,
Village Administrative Officer, (V.A.O)
Iyavathanallur,
Madurai South Taluk,
Madurai District.Petitioners

Vs.

- 1.The State of Tamil Nadu
Represented by the Principal Secretary,
Revenue Department, Fort St.George,
Chennai.
- 2.Additional Chief Secretary,
The Commissioner of Revenue Administration,
Chepauk, Chennai - 5.
- 3.The Secretary,
Tamil Nadu Public Service Commission,
Frazar Bridge Road,
VOC Nagar, Park Town,
Chennai - 600 006.Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, to call for the records pertaining to the impugned Notification No.7/15, dated 30.04.2015 on the file of the 3rd respondent and quash the same as illegal to the extent of recruitment of 618 posts of Revenue Assistant in Revenue Department at serial No.17 and consequently to direct the Respondents to fill up those 618 posts of Revenue Assistant through direct recruitment by considering the petitioners for promotion to the post of Revenue Assistants in the Tamil Nadu Revenue Department within the time stipulated by this Court.

For petitioners : Mr.T.Lajapathi Roy

For R1 & R2 : Mr.S.Dhayalan,
Government Advocate

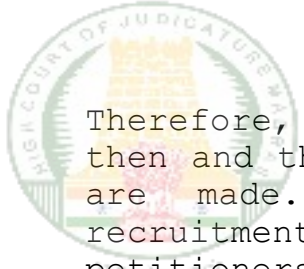
For R3 : Mr.K.K.Senthil

ORDER

The writ petitioners are now working as Village Administrative Officer and the learned counsel for the writ petitioners state that all the writ petitioners are qualified and eligible for appointment to the post of Revenue Assistant. The writ petitioners state that the method of appointment to the post of Revenue Assistant is prescribed as 2/3rd by way of promotion and 1/3rd by way of direct recruitment.

2.The present writ petition has been filed challenging the recruitment notification issued to fill up the post of Revenue Assistant by way of direct recruitment. The learned counsel for the writ petitioners state that on account of the direct recruitment, the opportunity to be provided under the rules are denied to these writ petitioners. 2/3rd number of vacancies ought to be filled up by way of promotion and in the event of direct recruitment, opportunity of promotions will be taken away. As per the Government Orders issued in G.O.Ms.No.78, dated 16.02.2015, the percentage for promotion also has been increased from 10% to 30%. Therefore, more number of post of Revenue Assistant are to be filled up by way of promotion from among to the eligible candidates working in the cadre of Village Administrative Officer.

3.The learned counsel appearing on behalf of the respondents made a submission that the increased percentage has not been amended in the rule and therefore, the said Government Order cannot be implemented unless and until, the said rule is amended to that effect. When the rule in force, any such subsequent Government Order issued without amending the rule, cannot be implemented at all. As per the rule, undoubtedly, 2/3rd number of posts of the Revenue Assistant ought to be filled up by way of promotion from among the qualified candidates working in the cadre of Village Administrative Officers, Steno- Typists and Junior Assistants.



Therefore, the total vacancies are assessed by the administration then and there and accordingly, the allotment of 2/3rd for promotion are made. Under these circumstances, with the particular recruitment notification cannot be challenged by the writ petitioners, as they are in no way connected with the direct recruitment and they are already serving as Village Administrative Officers. Whenever, a decision is taken to fill up the post of Revenue Assistants by way of promotion, the case of the writ petitioners also would be considered along with all other eligible candidates, strictly in accordance with the rules in force. The writ petitioners are in no way connected with the impugned recruitment notification. In the event of establishing the fact that 2/3rd posts are not filled up by way of promotion and complete details of the promotees and the direct recruitees as of now working in the cadre of Revenue Assistant ought to be provided and in the absence of providing all such details, the writ petitioners cannot challenge the recruitment notification, merely, on the ground that the promotions alone are to be granted. Undoubtedly, a decision to promote the candidates in the case of all the persons, who all are eligible and working in the cadre of Junior Assistants, Steno-Typists and Village Administrative Officers are to be considered in accordance with the rules in force.

4. With these observations, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal Secretary,
State of Tamil Nadu
Revenue Department, Fort St. George,
Chennai.

2. Additional Chief Secretary,
The Commissioner of Revenue Administration,
Chepauk, Chennai - 5.

+1 cc Mr. T. LAJAPATHI ROY, Advocate, SR.No. 75307
+1cc to M/s. Special Government Pleader, SR.No. 75177

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