

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.Nos.14230 to 14232, 14234 & 14235 of 2007
[O.A.Nos.2263 to 2265, 2267 & 2268 of 2003]

C.Kuppan ... Petitioner in
W.P.No.14230 of 2007

N.Subramanian ... Petitioner in
W.P.No.14231 of 2007

C.R.Nandakumar ... Petitioner in
W.P.No.14232 of 2007

J.Baskaran ... Petitioner in
W.P.No.14234 of 2007

S.Karunamoorthy ... Petitioner in
W.P.No.14235 of 2007

Vs

The Commissioner of Employment
and Training,
Chennai - 600 005. ...Respondent in all W.Ps

Common Prayer: Originally the petitions have been filed as
Original Application Nos.2263 to 2265, 2267 & 2268 of 2003
before the Tamil Nadu Administrative Tribunal at Chennai and
after abolition of TNAT, petition has been transferred and
numbered as W.P.Nos.14230 to 14232, 14234 & 14235 of 2007.

Petition filed praying to issue a writ of Certiorarified
Mandamus to call for the records relating to the Panel of
Superintendents/Office Managers for the year 2002-2003 issued by
the respondent in Proceedings No.36700/Pa.A.2/2002 dated
07.03.2003 and direct the respondent to include the Applicant's
name also in the said Panel counting his service in the post of
Assistants/Accountants/Store Keepers from 26.03.1987.

For Petitioners	: Mr.P.Rajendran
(In all W.Ps)	
For Respondent	: Mr.K.Magesh
(In all W.Ps)	Special Government Pleader

COMMON ORDER

The petitioners originally filed Original Applications 2263 to 2265, 2267 & 2268 of 2003 before the Tamil Nadu Administrative Tribunal at Chennai, subsequently, the said Administrative Tribunal was abolished and the same have been transferred as writ petitions before this Court and numbered as W.P.Nos.14230 to 14232, 14234 & 14235 of 2007 and grant them all consequential benefits.

2. The petitioners have filed the petitions challenging the Panel of Superintendents/Office Managers for the year 2002-2003 issued by the respondent in Proceedings No.36700/Pa.A.2/2002 dated 07.03.2003 and for a direction to the respondent to include the Applicants/petitioners name also in the said Panel counting their service in the post of Assistants/Accountants/Store Keepers from 26.03.1987.

3. The case of the petitioners is that the petitioners were working as Accountants/Assistants/Store Keepers at Government Industrial Training Institute, Cuddalore. They were initially appointed as Junior Assistant under Rule 10 (a) (1) of the Tamil Nadu State and Subordinate Service Rules.

4. The date of joining of the petitioners in the respondent department are mentioned below:-

Name of the Petitioners	Date of Joining
1.C.Kuppan	16.05.1981
2.N.Subramanian	02.04.1982
3.C.R.Nandakumar	22.02.1982
4.J.Baskaran	06.06.1981
5.S.Karunamoorthy	06.07.1981

Their services were regularized in the post of Junior Assistant with effect from 25.06.1984 as per the provisions of G.O.Ms.No.996, P & A.R Department, dated 22.09.1984.

5. In G.O.Ms.No.548, P & A.R Department, dated 19.06.1987, the seniority of a candidate appointed through special absorption in 1984 (by G.O.Ms.No.996, P & A.R Department, dated 22.09.1984) was directed to be fixed with reference to the date of first temporary appointment in the departmental unit in which he had been absorbed irrespective of whether he had been subsequently discharged for want of vacancies or appointed again through the employment exchange in that departmental unit.

6. The Petitioners submit that on 26.03.1987, the Joint Director (Training), Employment and Training Department, Chennai, issued an order in Proceedings No.C2/122189/86 dated 26.03.1987 promoting 45 Junior Assistants/Typists/Steno Typists as Assistants/Accountants/Store Keepers on temporary basis under

Rule 36(a) of the Tamil Nadu State and Subordinate Service Rules. The Petitioners were also promoted by the said order. In Proceedings No.122/89/88 dated 07.03.1988, the Director, Employment and Training, Chennai, certified that all the persons promoted by the above said order dated 26.03.1987, possessed all the qualifications required for promotion as Assistants/Accountants/Store Keepers.

7. Therefore, there is no dispute with reference to the fact that the petitioners were fully qualified for the said promotion. There were 45 vacancies in the promotion category and 45 persons from the feeder category were given promotion by the said order dated 26.03.1987. The promotions were made on the basis of a temporary list prepared for the year 1987-88 though no such list was circulated. To make promotions to the posts of Assistants/Accountants/Store Keepers, the consultation of the Tamil Nadu Public Services Commission is not required. Under Explanation-III to Rule 4 of the Tamil Nadu State and Subordinate Service Rules, no temporary list shall be prepared in respect of the posts for which consultation of the Tamil Nadu Public Service Commission is not required and the list of names prepared, if any, shall be a regular one. However on 29.07.1987, the Joint Director (Training), Chennai, issued a regular approved Panel for the year 1987-88 in Proceedings No.C2/16800/87 dated 29.07.1987 in which only 10 persons from the above said list of 45 persons were included. Others were included in the subsequent regular panels.

8. The petitioners name were not included in the Panel dated 29.07.1987 and they were included in the regular panel issued subsequently. No reasons were given for including only 10 names in the regular panel even though there were 45 vacancies and 45 persons including the petitioners were given temporary promotions and the Director himself had certified that all the persons promoted by the above said order dated 26.03.1987 possessed all the qualifications required for promotion as Assistants/Accountants/Store Keepers. Therefore the petitioners service in the category of Assistants/Accountants/Store Keepers should be counted with effect from 26.03.1987 for further promotion to the posts of Superintendents/Office Managers.

9. While so, the Commissioner of Employment and Training, Chennai-5, the respondent herein, has issued a Panel for promotion to the posts of Superintendents/Office Managers for the year 2002-2003 in Proceedings No.36700/Pa.A.2/2002 dated 07.03.2003 viz., the impugned order. In the said Panel, the petitioners name have not been included whereas the names of several persons who were promoted to the category of Assistants/Accountants/Store Keepers along with the petitioners by the above said order dated 26.03.1987 have been included.

10. Heard both sides and I have perused the records.

11. The petitioners were temporarily appointed under Rule 10a(i) of the Tamil Nadu State and Subordinate Service Rules. At that time, no regular candidates were available for appointment to the posts of Junior Assistants/Typists/Steno Typists in the vacancies arisen in the year 1981 to 1984. The Temporary appointments were made by the recruitment of the candidates through Employment Exchanges.

12. The Government has issued ban orders for temporary appointment of the candidates through Employment Exchanges with effect from 25.06.1984. Subsequently, they were regularized in service and during their probation period, the examination was called for Tamil Nadu Public Service Commission (TNPSC) in the year 1983 and also the Government issued G.O.Ms.No.548, P & AR Department, dated 19.06.1987 and ordered that every person who had been appointed through Special Absorption Rules in 1984, and whose services had been regularized with effect from 25.06.1984 shall take effect from the date of regularization of services namely 25.06.1984, be on probation for a total period of two years on duty within the continuous period of three years.

13. From this, it is clear that, at the time of commencement of regularization, the petitioners have not completed their probation period. However, during their probation period, the Tamil Nadu Public Service Commission (TNPSC) has also called for the examination, which held in November 1983. Therefore, once the regular candidates have been appointed subsequently, consideration of these petitioners name for promotion does not arise, since on the date of regular appointment by TNPSC, these petitioners have not completed their probation period.

14. Therefore, under these circumstances, only considering the appointment through TNPSC, these petitioners cannot compete with regular appointment candidates, whom were appointed by TNPSC. Therefore, under these circumstances, this Court does not find any reason to interfere with the impugned order passed by the respondent. Therefore, there is no merits in the present writ petitions.

15. With the above observation, these Writ Petitions are dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

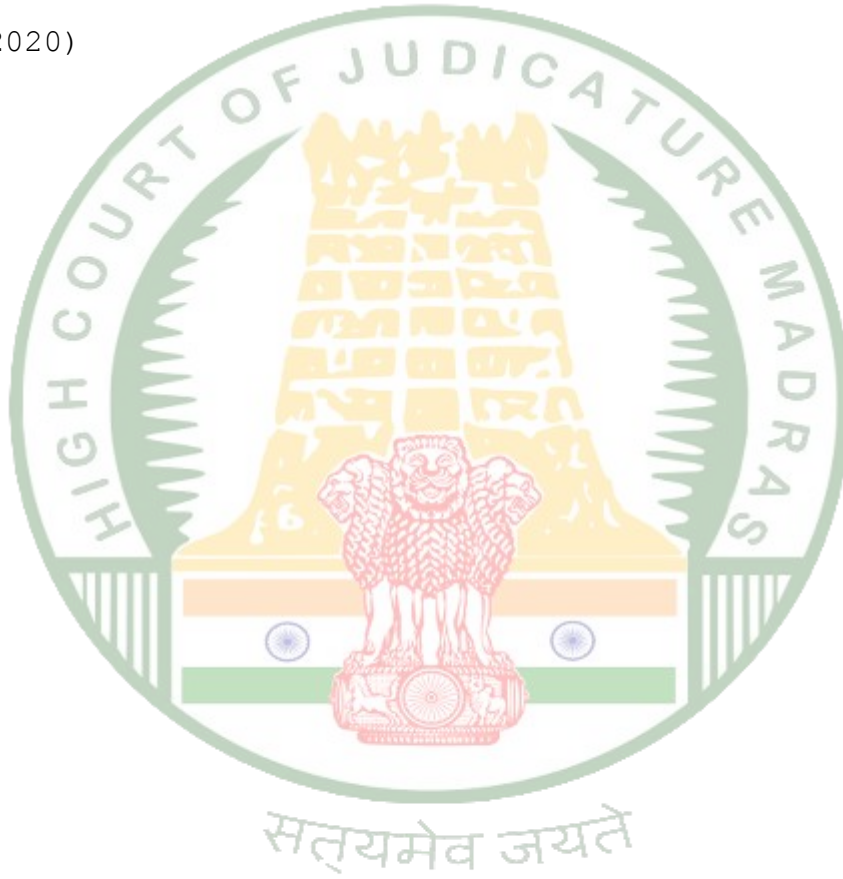
To

The Commissioner of Employment
and Training,
Chennai - 600 005.

+1cc to the Government Pleader, S.R.No.34369

W.P.Nos.14230 to 14232, 14234 & 14235 of 2007

SRA (CO)
RV (24/11/2020)



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