

IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 05.10.2020
DELIVERED ON : 29.10.2020

C O R A M

THE HON'BLE MR. A.P.SAHI, THE CHIEF JUSTICE
AND
THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.NOS.34445 OF 2014 AND 19453 OF 2015

1. D.Selvan Christopher
Senior Personal Clerk
Public Department, Secretariat,
Fort St. George, Chennai - 600 009.
2. K.Radha
Senior Personal Clerk,
BC, MBC & MW Department, Secretariat,
Fort St. George, Chennai - 600 009.
3. T.Thangaraj
Senior Personal Clerk,
RD & PR Department,
Secretariat,
Fort St. George, Chennai - 600 009.
4. P.Hemalatha
Senior Personal Clerk,
Higher Education Department,
Secretariat, Fort St. George, Chennai - 600 009.
5. D.Nandhini,
Senior Personal Clerk,
T.C & R.E Department,
Secretariat,
Fort St. George, Chennai - 600 009.
6. C.Devichandra,
Senior Personal Clerk,
Public Department,
Secretariat,
Fort St. George, Chennai - 600 009.
7. R.Udhayaprasad,
Senior Personal Clerk,
Public Works Department,
Secretariat,
Fort St. George, Chennai - 600 009.

8. S.Tamilselvi,
Senior Personal Clerk,
Revenue Department,
Secretariat,
Fort St. George, Chennai - 600 009.
9. K.Rukmani Devi,
Senior Personal Clerk,
Adidraavidar and Tribal Welfare Department,
Secretariat,
Fort St. George, Chennai - 600 009.
- 10.K.Suba,
Senior Personal Clerk,
Agriculture Department,
Secretariat,
Fort St. George, Chennai - 600 009.
- 11.G.Manimegalai,
Senior Personal Clerk,
Tamil Development and
Information Department,
Secretariat, Fort St. George, Chennai - 600 009.
- 12.R.Renuka Devi,
Senior Personal Clerk,
HG & UD Department,
Secretariat,
Fort St. George, Chennai - 600 009.
- 13.R.Prakash,
Senior Personal Clerk,
Transport Department,
Secretariat,
Fort St. George, Chennai - 600 009.
- 14.K.Mathiyazhagan,
Senior Personal Clerk,
Agriculture Department,
Secretariat,
Fort St. George, Chennai - 600 009.
- 15.K.Sivakumari,
Senior Personal Clerk,
Public Works Department,
Secretariat,
Fort St. George, Chennai - 600 009.

16.N.Sasirekha,
Senior Personal Clerk,
Housing and Urban Development Department,
Secretariat,
Fort St. George, Chennai - 600 009.

17.K.Shantha Devi,
Senior Personal Clerk,
Agriculture Department,
Secretariat,
Fort St. George, Chennai - 600 009.

18.J.Jayakumar,
Senior Personal Clerk,
Tamil Nadu State Information Commission,
No.2, Theagaraya Salai,
Teynampet,
Chennai-600 018.

19.V.Vasumathi,
Senior Personal Clerk,
Tamil Nadu State Information Commission,
No.2, Theagaraya Salai,
Teynampet,
Chennai-600 018.

20.S.Varalakshmi,
Senior Personal Clerk,
Tamil Nadu State Information Commission,
No.2, Theagaraya Salai,
Teynampet,
Chennai-600 018.

21.P.Muthu Kumar,
Senior Personal Clerk,
Transport Department,
Secretariat,
Fort St. George, Chennai - 600 009.

22.P.Karuppasamy
Personal Clerk,
Tamil Nadu State Information Commission,
No.2, Theagaraya Salai,
Teynampet, Chennai-600 018.

23.P.Udhayakumar,
Personal Clerk,
Tamil Nadu State Information Commission,
No.2, Theagaraya Salai,
Teynampet,
Chennai-600 018.

...Petitioners
(in W.P.No.34445 of 2014)

1.K.Sankaranarayanan
Senior Personal Clerk,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.K.Nesammal
Senior Personal Clerk,
Adi Dravidar & Tribal Welfare Department,
Secretariat, Fort St. George.
Chennai 600 009.

...Petitioner
(in W.P.No.19453 of 2015)

..vs..

The State of Tamil Nadu,
Rep by its Secretary to Government,
Personnel and administrative Reforms Department,
Secretariat, Fort St. George,
Chennai-600 009.

...Respondents
(in both appeals)

PRAYER IN W.P.NO.34445 OF 2014: Petition filed under Article 226 of the Constitution of India praying to issue a writ of declaration to declare Rule 8 of the Special Rules for the Tamil Nadu Secretariat Service with reference to non inclusion of the post of Personal Clerk in the feeder category for promotion to the post of Assistant Section Officer (ASO) along with Senior Personal Clerk and Rule 14 of the Special Rules for Tamil Nadu Secretariat Service in so far as prescribing 5 years service qualification for promotion to the post of Assistant Section Officer (ASO) in respect of Personal Clerk/Senior Personal Clerk as illegal, arbitrary and unconstitutional, discriminatory.

PRAYER IN W.P.NO.19453 OF 2015: Petition filed under Article 226 of the Constitution of India praying to issue a writ of declaration to declare Rule 8 of the Special Rules for the Tamil Nadu Secretariat Service with reference to non inclusion of the post of Personal Clerk in the feeder category for promotion to the post of Assistant Section Officer (ASO) along

with Senior Personal Clerk and Rule 14 of the Special Rules for the Tamil Nadu Secretariat Service(category 1C) in so far as prescribing 5 years service qualification for promotion to the post of Assistant Section Officer(ASO) in respect of Personal Clerk/Senior Personal Clerk as illegal, arbitrary and unconstitutional, discriminatory.

For Petitioner : Mr.G.Sankaran
For Respondents : Mrs.Narmatha Sampath, AAG,
Assisted by
Mr.V.Jayaprakash Narayanan
State GP

COMMON ORDER

SENTHILKUMAR RAMAMOORTHY J.,

In both these writ petitions, Rules 8 and 14 of the Special Rules for the Tamil Nadu Secretariat Service are challenged. Rule 8 relates to the pattern of appointment to the post of Assistant Section Officer(ASO), including the feeder categories for appointment by promotion, and Rule 14 relates to qualifications, inter alia, for the post of ASO, including the experience qualification of five years in the post of Senior Personal Clerk and Personal Clerk for promotion to the post of ASO. In W.P. No.34445 of 2014, Petitioners 1 to 21 are persons who had already been promoted as Senior Personal Clerks as on the date of filing of the writ petition in the year 2014. As regards Petitioners 22 and 23, they were Personal Clerks at the time of filing of the writ petition but were promoted as Senior Personal Clerks in the year 2017, while the writ petition was pending. As regards W.P. No.19453 of 2015, both the Petitioners were Senior Personal Clerks at the time of filing of the writ petition.

2. The Special Rules for the Tamil Nadu Secretariat Service, as applicable per G.O.(Ms.) No.65, Personnel and Administrative Reforms (U) Department, dated 04.12.2008 [G.O. (Ms.) No.65], amended the then existing seven point roster and instead stipulated a eight point roster for appointment to the post of ASO, by providing a separate rotation for promotion from the category of Non-Graduate Assistant. In terms thereof, a common rotation was provided for appointment by promotion from the posts of Personal Clerk, Typist, and by transfer from the category of Personal Assistant. By G.O. (Ms.) No. 186, Personnel and Administrative Reforms (U) Department, dated 27.07.1998, a nine point roster replaced the eight point roster and a common rotation was provided for promotion from the post of Personal

Clerk and by transfer from the post of Personal Assistant. Meanwhile, W.P. No.21949 of 2006 was filed and, by order dated 20.11.2006, G.O.(Ms.) No.65 was set aside on the basis that it was not in consonance with the order dated 26.08.1994 of the Tamil Nadu Administrative Tribunal in O.A. No. 782 of 1993, and the Court directed that the matter be examined afresh by reckoning the cadre strength in each feeder category to arrive at a scientific ratio having regard to the nature of duties performed and the cadre strength.

3. Pursuant thereto, a Sub-Committee comprising two under-secretaries to the Government, a Research Officer of the O&M cell and a Section Officer of the Personnel and Administrative Reforms Department was constituted under G.O. (D) No. 130, Personnel and Administrative Reforms (U) Department, dated 10.07.2007 to examine the matter afresh. Thereafter, on the basis of the Sub-Committee's Report, the order of the High Court and the recommendations of the TNPSC, executive instructions were issued in G.O. (Ms.) No.237, Personnel and Administrative Reforms (U) Department, dated 26.10.2007 [G.O.(Ms.) No.237] specifying the feeder categories of Assistant, Senior Personal Clerk and Senior Typist, respectively, for promotion to the post of ASO and fixing a 4:1:1 ratio as between them. G.O. (Ms.) No.237 provided for a eight point roster, wherein the separate rotation for promotion from the category of Non-Graduate Assistant was eliminated, and one rotation by promotion from the post of Senior Personal Clerk and another from the post of Senior Typist were included. Pursuant thereto, the amendments to the Special Rules of the Tamil Nadu Secretariat Service were effected under G.O. (Ms.) No.220, Personnel and Administrative Reforms (U) Department, dated 04.12.2008[G.O.(Ms.)No.220]. Rule 5(1)(a), as amended, provided for appointment of ASOs by promotion from the feeder categories of Assistant, Senior Personal Clerk and Senior Typist in a 4:1:1 ratio. Rule 8, as amended, gave effect to the eight point roster with one rotation by promotion from the post of Senior Personal Clerk (the sixth rotation) and another from the post of Senior Typist (the seventh rotation).

4. Moreover, as per G.O. (Ms.) No. 218 dated 12.08.1994, the educational qualification for the post of Personal Clerk was Minimum General Educational Qualification(MGEQ), i.e. 10th standard. A five year service qualification was prescribed for the feeder category of Personal Clerk for appointment by promotion as ASO. Rule 14, as applicable to Personal Clerks was subsequently amended by specifying the higher educational qualification of a bachelor's degree. However, the five year service qualification was retained.

5. According to the Petitioners, the post of Personal Clerk (168) and Senior Personal Clerk (88) formed a combined cadre strength of about 256 and constituted a single homogeneous class, which served as a feeder category for promotion to the post of ASO. However, the Special Rules were amended by G.O. (Ms.) No.220. By virtue of the said amendment, the post of Personal Clerk was excluded from the feeder category for promotion to the post of ASO, which has a cadre strength of about 1282 in the Secretariat. As a consequence, the promotional opportunity to the post of ASO is limited to the 88 Senior Personal Clerks; and Personal Clerks, who are on a higher pay scale than Assistants, lose this opportunity. In addition, originally the educational qualification for the post of Personal Clerk and Senior Personal Clerk was MGEQ. On account of the fact that MGEQ was the educational qualification for the post, five years service experience was prescribed as the experience qualification for promotion to the post of ASO. Subsequently, by G.O. Ms. No.255 dated 12.07.1993 and the consequential amendment notified in G.O. Ms. No.218 dated 12.08.1994, the educational qualification for the post of Personal Clerk was enhanced as a bachelor's degree instead of MGEQ. In spite of the enhancement of the educational qualification and the prescription of the technical qualification of type writing and shorthand (Higher Grade) both in English and Tamil, the five years experience qualification for promotion to the post of ASO was not deleted. Therefore, the Petitioners state that they are aggrieved by Rules 8 and 14 of the Special Rules, which prescribe the feeder category and the experience qualification, respectively. The present writ petitions have been filed in these facts and circumstances to challenge the aforesaid Special Rules.

6. We heard Mr.G.Sankaran, the learned counsel for the Petitioners in both the writ petitions, and Mrs.Narmadha Sampath, the learned Additional Advocate General for the Respondent in both the writ petitions.

7. Mr.G.Sankaran commenced his submissions by pointing out that the post of Personal Clerk is not a technical post. In support of this contention, he referred to G.O.(Ms.)No.603, P & AR(M) Department, dated 12.06.1985, which categorizes the Tamil Nadu Secretariat Service as a non- technical service consisting of the posts of Assistant Section Officer, Typist, Personal Clerk and Assistant. He further contended that the post of Personal Clerk is included therein but not the post of Senior Personal Clerk. Subsequently, by GO.(Ms) No.357, P & AR (Per.II) Department dated 02.11.1992, the Government provided for upgrading of Typists and Personal Clerks, who were in the selection grade as on 27.06.1989, to the new post of Senior Typist and Senior Personal Clerk. For this purpose, 250 posts

of Senior Typists and Senior Personal Clerks were directed to be created in the departments of the Secretariat for providing a regular promotion channel for the post of Typist and Personal Clerks in the Secretariat, irrespective of whether they opt for promotion to the post of ASO or not. His next contention is that it is necessary to fix the ratio among the feeder categories based on the cadre strength of each feeder category. In support of this contention, he relied upon the judgment of this Court in W.P. No.21949 of 2006, wherein, by order dated 20.11.2006, this Court held that the ratio should be fixed on the basis of cadre strength in a scientific manner to ensure that all feeder categories get their due share in the matter of promotion.

8. Mr.Sankaran next contended that the cadre strength of Personal Clerks and Senior Personal Clerks is 168 + 88 which aggregates to 256 and that the ratio should be fixed on the basis of the combined cadre strength. Unfortunately, in G.O. (Ms.) No.237, an erroneous and reduced cadre strength of 121 (Personal Clerks) + 96 (Senior Personal Clerks) = 217 was taken into consideration. Besides, as a result of the amendment made by the impugned Rules, the post of Personal Clerk has been deleted from the feeder categories as regards promotion to the post of ASO. In this regard, he invited the attention of the Court to G.O.(Ms) No.220. In particular, he pointed out as to how Rule 8 of the pre-existing Special Rules for the Tamil Nadu Secretariat service was substituted by the amended rule in terms of which ASOs in the departments of the Secretariat would be appointed from the three feeder categories mentioned therein on a 4 : 1 : 1 ratio. Before the amendment, Personal Clerks were a feeder category along with those who were transferred from the post of Personal Assistant (seventh rotation) but by this amendment, he pointed out that the feeder category was restricted to Senior Personal Clerks. In response to a question as to the locus standi of the Petitioners, who are Senior Personal Clerks, to challenge the deletion of Personal Clerks as a feeder category, Mr.Sankaran pointed out that Petitioners 22 and 23 in W.P. No.34445 of 2014 were Personal Clerks as of the date of filing of the writ petition. Therefore, they have the locus standi. In addition, he contended that the cadre strength of the single homogeneous category of Personal Clerks + Senior Personal Clerks has reduced drastically by deleting Personal Clerks from the feeder category. In order to substantiate the contention that Personal Clerks and Senior Personal Clerks constitute a single homogeneous class, he relied upon the judgments of the Hon'ble Supreme Court in Bharat Sanchar Nigam Limited v. R.Santhakumari Velusamy and others (2011) 9 SCC 510 and B.Thirumal vs. Ananda Sivakumar and others (2014) 16 SCC 593 (B.Thirumal). At paragraphs 24 to 26 of B.Thirumal, the Supreme Court held that upgradation is different from promotion. By

relying on the aforesaid judgments, he reiterated that Personal Clerks were upgraded to the post of Senior Personal Clerks and that, therefore, these are not two distinct posts but constitute one homogeneous class.

9. The next contention of Mr.Sankaran is that Rule 14 was amended and a bachelor's degree was introduced as the educational qualification for appointment to the post of Personal Clerk instead of MGEQ. Notwithstanding such amendment, the service or experience qualification attached to the post of Personal Clerk prior to the amendment on 12.07.1993 was not deleted. Thus, Personal Clerks, who are on a higher scale of pay and are more qualified than Assistants and Typists, are required to fulfil the experience qualification, whereas other feeder categories are not required to fulfil such experience qualification. According to Mr.Sankaran, this is discriminatory and liable to be interfered with.

10. The learned AAG made submissions in response and to the contrary. The first contention of the learned AAG was with reference to the amendment to Rule 8. In this connection, she invited the attention of the Court to G.O.(Ms).No.220 and pointed out as to how Typists/Personal Clerks, who were in the selection grade as on 27.06.1989, were upgraded to the post of Senior Typists/Senior Personal Clerks subject to the condition that they should relinquish their rights of promotion in the clerical line. Subsequently, this position changed and, by G.O. Ms. No.357, Personnel and Administrative Reforms Department dated 02.11.1992 (G.O. Ms. No.357), these posts became promotional posts for those in the posts of Typist/Personal Clerk. Thereafter, by G.O. Ms. No. 385, Personnel and Administrative Reforms Department dated 03.12.1992 (G.O. Ms. No.385), the entitlement to promotion as Senior Typist/Senior Personal Clerk was assured irrespective of whether they opt for the administrative line. Therefore, she submitted that Personal Clerks and Senior Personal Clerks constitute two separate classes on different pay scales and the post of Personal Clerk is the only feeder category for promotion to the post of Senior Personal Clerk. She also pointed out that the Petitioners are not adversely affected by the amendment to Rule 8 whereby the post of Senior Personal Clerk was made as the feeder category for the post of ASO without changing the prescribed 4 : 1 : 1 ratio as between Assistants, Senior Personal Clerks and Senior Typists. In fact, she contended that the Petitioners, who are Senior Personal Clerks, would stand a better chance of being promoted after Personal Clerks were deleted from the feeder category. Her next contention was that Personal Clerks have promotion avenues both in the clerical and administrative cadre, whereas the only promotional avenue for Assistants is to the post of ASO. In the clerical line, Personal Clerks are entitled

to the following promotional opportunities: Senior Personal Clerk, Personal Assistant, Private Secretary, Senior Private Secretary, Principal Private Secretary and Senior Principal Private Secretary. Pursuant to the order dated 20.11.2006 in W.P. No. 21949 of 2006, a Sub-Committee was established to examine the pattern of appointment of ASOs and the impugned amendments were made after considering the Report of the Sub-Committee, the order of the High Court and the recommendations of the TNPSC. Thus, these amendments are reasonable, valid and non-arbitrary.

11. With regard to the amendment to Rule 14, she pointed out that when Senior Personal Clerks opt for the administrative line, it is necessary to prescribe an experience qualification in view of the difference in the nature of work of an ASO and a Senior Personal Clerk. In order to substantiate this contention, she referred to the Tamil Nadu Secretariat Service Office Manual, wherein the duties of an ASO are set out and it is specified that an ASO is required to prepare notices and drafts, maintain personal registers and assist the Section Officer in section work. An ASO is also required to maintain the prescribed periodical registers and put up reminders. By contrast, as regards Personal Clerks and Senior Personal Clerks, the duties are to take dictation by shorthand from the Secretary or the other officers and carry out such other items of work as are entrusted to them. On the above basis, she pointed out that the retention of the experience qualification is germane in light of the change in the nature of duties to be performed by an ASO.

12. We considered the submissions of Mr. Sankaran and the learned AAG and examined the materials on record.

13. The first question that arises for consideration is whether the Petitioners have the locus standi to maintain the writ petitions. Except Petitioners 22 and 23 in W.P. No. 34445 of 2014, the admitted position is that all the other Petitioners in W.P. No. 34445 of 2014 were Senior Personal Clerks as on the date of filing W.P. No. 34445 of 2014. As regards W.P. No. 19453 of 2015, both the Petitioners therein were Senior Personal Clerks as on the date of filing of the writ petition. Therefore, except Petitioners 22 and 23, none of the other Petitioners can contend that they are aggrieved by the deletion of personal clerks from the feeder category. Nonetheless, in view of the fact that Petitioners 22 and 23 were personal clerks as on the date of filing of the writ petition, we proceed to consider the claim on merits. However, prior to that, the law on the subject may be examined briefly.

14. In P.U. Joshi v. Accountant General (2003) 2 SCC 632, the Supreme Court examined the scope for judicial review in such matters and held as under:

"10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

15. Thus, the scope of enquiry should be limited to examining whether the amended rules are unconstitutional on account of lack of competence or arbitrariness. The first step, in this process, would be to test the amendment to Rule 8 of the Special Rules for the Tamil Nadu Secretariat Service. The amendment was effected under G.O. (Ms.) No.220 in exercise of powers conferred

by the proviso to Article 309 of the Constitution of India. As such, there is no doubt that the amendment was carried out pursuant to a valid exercise of delegated legislative power by the State Government. The next question is whether the amendment is liable to be interfered with on the ground of arbitrariness or for any other reason. For this purpose, the text of the amended Rule 8 should be examined and it reads as under:

"3. for Rule 8, excluding the provisos thereunder, the following rule shall be substituted, namely:-

"8. Pattern of appointment of Assistant Section Officers in the Departments of Secretariat other than the Law Department, Tamil Development, Culture and Religious Endowments Department (Translations) and Governor's Secretariat.

Subject to rule 8 of the General Rules, out of every eight vacancies in the category of Assistant Section Officers in the Departments of Secretariat other than the Law Department, Tamil Development-Culture and Religious Endowments Department (Translations), and the Governor's Secretariat, appointment shall be made in the following order of rotation:-

- (1) by direct recruitment;
- (2) by promotion from the category of Assistant;
- (3) by promotion from the category of Assistant;
- (4) by promotion from the category of Assistant;
- (5) by promotion from the category of Assistant;
Provided that the 20th rotation shall be filled up by the non-graduate Assistants and that if no suitable and qualified non-graduate Assistant is available, then the said rotation shall be filled up from among the holders of the post of Assistant;
- (6) by promotion from the category of Senior Personal Clerks.
- (7) by promotion from the category of Senior Typist; and
- (8) by recruitment by transfer from the category of Assistants in the Tamil Nadu Ministerial Service or the Tamil Nadu Judicial Ministerial Service."

On perusal thereof, we find that it provides for the appointment of ASO's in the departments of the Secretariat, other than the excluded departments, in a particular order of rotation as between direct recruitment, promotion and recruitment by transfer. As regards appointment by promotion, the three feeder categories are Assistants, Senior Personal Clerks and Senior Typists, and, inter-se these three feeder categories, appointments are on a 4:1:1 ratio as specified in the amended Rule 5. The grievance of the Petitioners is with regard to the

deletion of Personal Clerks from the feeder category. This deletion and substitution was done by an amendment to Rule 5, which is not under challenge. The failure to challenge Rule 5 considerably denudes the challenge to Rule 8 of vitality. Nonetheless, we proceed to test Rule 8 independently. In G.O. (Ms.) No.237, after taking into consideration the High Court order, Sub-Committee Report and the TNPSC's recommendation, it was recorded, inter alia, in paragraph (v)(a), as under:

".... Further for the holders of the post of Personal Clerk, Senior Personal Clerk is the promotional Post. Similarly for the holders of the post of a Typist, Senior Typist is the promotional post. Hence, the Government are of the view that the holders of the post of Senior Personal Clerk and Senior Typist alone should be made as the eligible feeder categories to the post of Assistant Section Officer from among the said categories."

In exercise of delegated legislative power, subject to a constitutional or statutory challenge, it is always open to the Government to duly amend the provisions relating to promotion, including the feeder category which would be considered for such purpose. In this case, as is evident from the above extract, the rationale for the deletion of Personal Clerks and Typists is stated clearly. In addition, G.O. (Ms.) No.220 also contains an additional explanation to the effect that the post of Senior Typist/Senior Personal Clerk is the promotional post from the post of Typist/Personal Clerk under G.O. Ms. No.357 and that, as per G.O. Ms. No. 385, irrespective of whether Typists and Personal Clerks opt for the ASO line or not, they would be eligible for promotion as Senior Typist and Senior Personal Clerks in the available vacancies. On this issue, we also note that under G.O. (Ms.) No.65, a common rotation was provided for Personal Clerks, Typists and transferred Personal Assistants. Likewise, under G.O. (Ms.) No. 186, a common rotation was provided for promotion from the post of Personal Clerks and for transferred Personal Assistants. By contrast, under the impugned Rule 8, separate rotations are provided for the feeder posts of Senior Personal Clerk (sixth rotation) and Senior Typist (seventh rotation), and there is some basis to state that it enhances the promotion prospects of Senior Personal Clerks such as the Petitioners. In these circumstances, we do not find anything arbitrary in the prescription of Senior Personal Clerk as the feeder category for promotion to the post of ASO.

16. Mr.Sankaran contended that the experience qualification of five years should have been deleted once a bachelor's degree was prescribed as the educational qualification for the post of Personal Clerks/Senior Personal Clerk. In response, the learned AAG pointed out that the duties of a Personal Clerk/Senior

Personal Clerk are different from that of an ASO. On examining the Tamil Nadu Secretariat Service Manual, we note that ASOs are expected to prepare notes and drafts and to maintain personal registers. By contrast, Senior Personal Clerks are required to undertake shorthand work. As detailed in G.O. Ms. 237, therefore, there is significant difference in the nature of duties to be performed by ASOs as compared to a Senior Personal Clerk, whereas the difference is not significant when the work of an Assistant and that of an ASO are compared. These administrative duties are not taught in a bachelor's degree course. Besides, Rule 14 also provides that work experience as a Personal Clerk would be reckoned for this purpose. When viewed cumulatively, notwithstanding the fact that the prescription of the experience qualification of five years in the post of Personal Clerk or Senior Personal Clerk may not be entirely germane to bridge the disparate nature of duties, the experience prescription cannot be construed as arbitrary. In any event, it is for the Government to decide on the necessary educational and experience qualification for a promotional post and this Court does not sit in appeal over such prescription of qualifications for a job. The other contention, in this regard, by Mr. Sankaran is that the experience qualification is not prescribed for other feeder categories. In response to this, the learned AAG submitted that the nature of work performed by other feeder categories is different, and this is detailed in G.O. Ms. No.237. In addition, she also pointed out that Personal Clerks and Senior Personal Clerks have the option of either continuing in the technical line or migrating to the administrative line. In these circumstances, the experience qualification was retained so as to arrive at a balance between the different feeder categories. Upon considering the rival contentions, we do not find any reason to interfere with these prescriptions.

17. For reasons set out above, we find that the Petitioners have failed to make out a case to declare either Rule 8 or Rule 14 as illegal, arbitrary or unconstitutional.

18. In the result, the writ petitions fail and are dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rrg

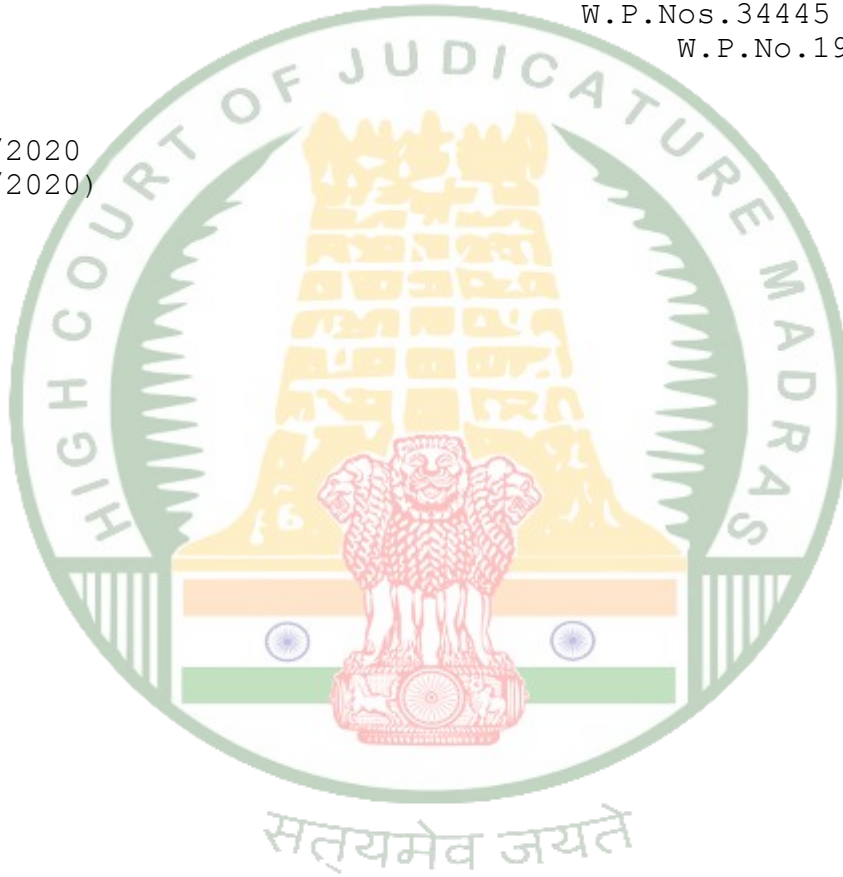
To

The Secretary to Government,
The State of Tamil Nadu,
Personnel and administrative Reforms Department,
Secretariat, Fort St.George,
Chennai-600 009.

+1cc to M/s.G.Sankaran, Advocate, SR.No.35381

Pre Delivery Common Order in
W.P.Nos.34445 of 2014 and
W.P.No.19453 of 2015

SRA (CO)
KKV/10/12/2020
KKV(14/12/2020)



WEB COPY