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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.26921 of 2008

T.VIJYALAKSHMI PANDIT
W/o.A.Jeyakumar

... Petitioner

Vs.

1.Government of Tamil Nadu
Rep. by Secretary to Government
Home (Prison.I) Department
Secretariat
Fort St. George
Chennai 600 009

2.The Director General of Prisons
Egmore
Chennai 600 008

... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Rule 2 (A) of the Tamil Nadu Jail Service in Section 20, Tamil Nadu Service Manual (corrected upto 24.07.2000) Volume II to the limited extent of non-inclusion of the post of Superintendent of Prisons (Special Prison for Women) as one of the Feeder categories along with the equivalent posts of Superintendent of Prisons (Central) and Superintendent of Borstal School for appointment by promotion to the post of Deputy Inspector General of Prison and the order passed by the first respondent in Letter No.48832/Pri.I/08-3. Dated 22.07.2008 in so far it relates to the petitioner herein and to quash the same and issue consequential directions to the respondents to promote the petitioner as Deputy Inspector General of Prisons either by including the post of Superintendent of Prison (Special Prison for women) as one of the feeder category for promotion as Deputy Inspector General of Prisons along with Category 3 in Class I post by issuing suitable amendment or by providing relaxation to Rule 2(A) and Rule 5 of Tamil Nadu Jail Service.

For Petitioner	: Mr.M.Ravi
For Respondents	: Mr.C.Selvaraj
	Government Advocate



O R D E R

(The case has been heard through video conference)

The petitioner has filed this writ petition seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Rule 2 (A) of the Tamil Nadu Jail Service in Section 20, Tamil Nadu Service Manual (corrected upto 24.07.2000) Volume II to the limited extent of non-inclusion of the post of Superintendent of Prisons (Special Prison for Women) as one of the Feeder categories along with the equivalent posts of Superintendent of Prisons (Central) and Superintendent of Borstal School for appointment by promotion to the post of Deputy Inspector General of Prison and the order passed by the first respondent in Letter No.48832/Pri.I/08-3. Dated 22.07.2008 in so far it relates to the petitioner herein and to quash the same and issue consequential directions to the respondents to promote the petitioner as Deputy Inspector General of Prisons either by including the post of Superintendent of Prison (Special Prison for women) as one of the feeder category for promotion as Deputy Inspector General of Prisons along with Category 3 in Class I post by issuing suitable amendment or by providing relaxation to Rule 2(A) and Rule 5 of Tamil Nadu Jail Service.

2.Though the petitioner has sought for a wider relief, the learned counsel restricted the relief with respect to consideration of the petitioner's representation with regard to the promotion. The Tamil Nadu Government has framed Rules for Prison Service. The Service Rules pertain to the State Services is called Tamil Nadu Jail Service and for Subordinate Service called as Tamil Nadu Jail Subordinate Service. In so far as the State Service is concerned it consists of Branch-1 (General) and Branch-2 (Probation). Both these branches consist of various classes and categories of officers. Class-1 consists of five categories, lowest category is Jailors and by promotion it goes upto category-1 post viz. Inspector General of Prisons. In Class-2 of the Branch-1 consists of two categories, i) Superintendent of Prisons (Special Prison for Women), ii) Deputy Superintendent of Prison (Special Prison for Women), 3rd Class is Psychologist. In so far as this Writ Petition is concerned, the issue revolves around promotion from the Class-2 post to Class -1 post of Branch-1.

3.The petitioner herein was appointed as an Assistant Matron, the post of Assistant Matron falls under the purview of Tamil Nadu Jail Subordinate Service Rules. There are seven categories of posts falling under Branch-1 under part 1 of the Rules specified as Executive Staff. Branch-1 Executive Staff consists of 2 Classes and various categories of posts under



those two Classes. Class-I consists of Deputy Jailors, Assistant Jailors, Jailors in Sub Jails, Reserve Head Warders in Jails, Warderers in Centarl, District, Special Jails, Special Sub Jails, Sub Jails. Class II is pertaining to Women Cell consists of category of Matron, Assistant Matron, Women Gate Keeper, Women Chief Head Warder and Women Warders Grade-I and II. Thus the general Section is designated as class-I and Women Section is designated as class-II. Appointment to the post of Assistant Matron is made both by direct recruitment and by promotion from the post of Women Gate Keeper, Women Chief Head Warden.

4. In so far as the recruitment is concerned, the lowest category of police constable is done through selection by the Tamil Nadu Uniform Services Recruitment Board and the selection is made by a common recruitment for both men and women. So far training is concerned, Rule 8 specifies the method of training for the post of Assistant Jailors in Central Prisons which falls under Class-I and for the post of Matron which falls under Class-II. Period of training is nine months. It is pertinent to note that both the posts are made by recruitment, thus, Assistant Jailors who falls under Class-I and the Matron who falls under Class-II are directly recruited to undergo training for nine months and they execute agreement to serve in Prison Department for not less than five years, in default, to refund the entire pay and allowances paid to them during the training. Likewise, prescribed tests to be passed during the period of probation also similar to the of Deputy Jailors and Assistant Jailors and Matron and Assistant Matron. Thus, it is seen that the post of Deputy Jailors and Assistant Jailors as well as the Matron and Assistant Matron was similar in various aspects.

5. The Class created by the legislators appear to be on the basis selection to general category and special category of Women. In general category, both men and women can be recruited by direct recruitment method, whereas, in Class-II, only women can be recruited. Therefore, it could be inferred that but for this classification into General and Women category, the method of recruitment and training to both are all same. When it comes to promotion to the State Service, it is made from Assistant Matron and Matron to the post of Deputy Superintendent Prison and Superintendent of Prison (Special Prison for Women). So far as the Assistant Jailors and Jailors, it is to the post of Additional Superintendent of Central Prison, Superintendent of Central Prison including Superintendent of Special Prisons for Women and Deputy Inspector General to Prison and thereafter the Inspector General of Prison.

6. Now that the issue is that the promotion to the post of Deputy Inspector General of Prison falls among the categories



within Class-I of Branch-1. In so far as the Category-1, Superintendent of Special Prison for Women falls under Class-II in Branch-1 no promotion avenue is specified. We have seen that as far as Rule 8(B) of Tamil Nadu Jail Subordinate Service Rules, the post of Assistant Jailor or Matron are equivalent and the training, departmental tests, probation period to be undergone by them are similar. Therefore, both the posts of Assistant Jailor and Matron can be equated and promotion is also equivalent to both the categories. From the post of Jailor a person can raise up to Superintendent to Central Prison, which is equated to a Matron raising upto Superintendent of Special Prison for Women under Class-2 categories. We have already observed that Class-I and Class-II are bifurcated because of the nature of its recruitment. As observed for Branch-1 (General category) both men and women can be recruited. Whereas, for Branch-2 (Probation category) only Women can be recruited. When this Class-II is a special category where women are appointed to the Women Prison cannot be said to lesser than Class-I Category. For example if a woman Police Constable is selected and promoted to the post of Assistant Jailor or Jailor, she can raise upto Inspector General of Prisons in the hierarchy, whereas, as per the above Rule, it is construed for reasons unknown that the women appointed to Class-II can raise only upto Superintendent (Special Prison for Women). Such a discrimination may not have been intended by the Legislators. When a woman is appointed to a Special Prison and distinguished prison for women that will not be the end for her progress. It is well settled by law isolation of post without promotional avenue is arbitrary and illegal. In that view of the matter only because appointment to Superintendent to Special Prison for women Class-II of Branch-I, goes without any further promotion. Naturally from the posts of Superintendent they should be given opportunity to the next post of Deputy Superintendent. Otherwise it tantamounts to gender discrimination also.

7. From the counter affidavit filed by the respondents, it is seen that no interpretation has been given to the Rules. We try to understand the distinction between the Branch-1 (General) and Branch-2 (Probation) and objects and reasons for classifying the above two branches is also not available before this Court. Therefore, instead of interfering with the legislation or issuing direction to the legislators, who are the law makers, this Court leaves it to the legislative domain.

8. For that purpose it is necessary to direct the petitioner to make a representation setting out all the grounds with substantiating materials as well as judicial precedents to the 1st respondent within a period of three weeks from the date of receipt of a copy of this order. On such representation, the respondents are directed to consider the same and after forming



appropriate opinion as to the objects and reasons of the classifications particularly between the General Category and Women Category, pass a reasoned appropriate order within a period of eight weeks thereafter.

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9. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To.

1. The Secretary to Government
Home (Prison.I) Department
Secretariat, Fort St. George
Chennai 600 009.

2. The Director General of Prisons
Egmore, Chennai 600 008.

+1cc to the Government Pleader, S.R.No.31728

W.P.No.26921 2008

CP(CO)
CB(05/08/2021)