



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.9581 of 2020

R.Madhivanan (50 years),
Son of R.Ranganathan,
Superintendent,
Office of the District Educational Officer,
Thiruvannamalai,
133/20A, Jain Kovil Street,
Thenpalani Nagar,Vettavalam Road,
Thiruvannamalai-606 601.

.. Petitioner

Vs.

1. State Represented by
Commissioner of Treasuries and Accounts,
Government of Tamil Nadu,
Integrated Complex for Finance Department,
Amma Nilayam, Anna Salai,
Nandanam, Chennai-600 035.
2. The Director of School Education,
DPI Complex, College Road,
Chennai-600 006.
3. The Chief Educational Officer,
Thiruvannamalai-606 601.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to call for the records pertaining to the proceedings No.R.C.No.491/2019/A3, dated 11.06.2019 on the file of the first respondent and direct the first respondent to include the name of the petitioner in panel for the year 2018-2019 for the post of Assistant Accounts Officer with due seniority.

For petitioner : Mr.N.A.Ravindran

For respondents : Mr.L.S.M.Hasan Fizal, Addl.G.P.



ORDER

This Writ Petition is filed praying for issuance of a Writ of Mandamus to call for the records pertaining to the proceedings No.R.C.No.491/2019/A3, dated 11.06.2019 on the file of the first respondent and direct the first respondent to include the name of the petitioner in panel for the year 2018-2019 for the post of Assistant Accounts Officer, with due seniority.

2. The case of the petitioner is that he was originally appointed as Junior Assistant on 05.12.1989 in the Tamil Nadu Ministerial Service of Education Department. He was promoted to the post of Assistant on 18.01.1995 and thereafter as Superintendent on 31.08.2012. He is presently working as Superintendent in the office of the District Educational Officer, Tiruvannamalai.

3. A Notification was issued by the first respondent/Treasuries and Accounts Department on 18.01.2019 calling for applications from eligible Superintendents of Tamil Nadu Ministerial Service and from the staff of Treasuries and Accounts Department for preparing a panel for the year 2018-2019 for appointment to the post of Assistant Accounts Officer. The last date for submission of the application was on 10.02.2019. The Notification was also circulated by the second respondent to subordinate offices on 01.02.2019 through electronic communication.

4. The petitioner, in response to the above Notification, submitted his application for consideration of his candidature through proper channel on 03.02.2019. The application was forwarded to the third respondent/Chief Educational Officer, Thiruvannamalai on the same day. The third respondent, in turn, forwarded the application to the second respondent/Director of School Education on 04.02.2019, and the same was also received at his office on 05.02.2019 as per the endorsement made in the letter.

5. Thereafter, on 11.06.2019, a panel of 66 employees, was released for appointment/promotion as Class IV Assistant Accounts Officer for the year 2018-2019. But surprisingly, the petitioner's name did not find place in the panel. Thereafter, the petitioner enquired with the office of the first respondent and was informed that his application was belatedly sent by the second respondent after cut-off date, and therefore, he was not included in the panel. As stated above, the last date for submission of the application in terms of the Notification, dated 18.01.2019, was on 10.02.2019.



6. The grievance of the petitioner is that though he had submitted his application duly filled in with all information, within the stipulated date on 03.02.2019 to the third respondent, the same being forwarded by the third respondent promptly on 04.02.2019 to the second respondent, unfortunately, the second respondent appeared to have not sent the application before the cut-off date, resulting in loss of invaluable promotion to the petitioner. The further grievance of the petitioner is that, when the panel was published on 11.06.2019 for the year 2018-2019, not a single official from the Education Department, has been considered for promotion to the post of Assistant Accounts Officer. The petitioner, in this regard, submitted his representation(s) to the competent authority. Unfortunately, the petitioner's representation(s) had not evoked any response and therefore, the petitioner is before this Court for redressal of his grievance by filing the present Writ Petition for the relief stated supra.

7. The second respondent (on his behalf and also on behalf of the third respondent) has filed counter affidavit stating that the application could not be sent on 10.02.2019 being the last date, as that date happened to be Sunday and the proposal was sent on the next working day. Therefore, the delay was due to administrative reasons, and there was no negligence on their part. It is therefore admitted that the second respondent did not forward the application before the cut-off date, but the same was sent on the very next working day on 11.02.2019. But the fact of the matter is that un-intentionally, the promotion which was otherwise due to the petitioner, had been denied for no fault of his.

8. On behalf of the first respondent, a detailed counter affidavit has been filed. The counter affidavit confirmed that as far as the application of the petitioner was concerned, it was received after the dead-line fixed by the competent authority, and therefore, the proposal received from the second respondent/Director of School Education, was not considered and subsequently it was rejected.

9. The counter affidavit of the first respondent further stated that if the prayer of the petitioner is considered, it may become a precedent and similarly placed persons like that of the petitioner, may approach this Court for the same type of relief which would lead to flood-gate litigations, resulting in unsettling the settled position in the cadre.

10. From the above factual narrative, it could be seen that the petitioner was not at fault at all while submitting his application. In fact, admittedly, he submitted his application well before the cut-off date on 03.02.2019 itself. The third



respondent thought it fit to forward the same to the second respondent on 04.02.2019. For some administrative reasons, the second respondent had forwarded the application after the deadline, i.e. only on 11.02.2019, which according to the second respondent, was not intentional. However, the fact of the matter is that whether it was un-intentional or intentional, ultimately, the consequence has befallen the petitioner by snatching away a very valuable promotion, which otherwise would have earned by him on his own right.

11. Although any application received after the deadline, may not be entertained in the normal circumstances, but, in the present set of facts and circumstances, this Court is of the view that the promotional exercise is an in-house affair not involving any recruiting agency like the Tamil Nadu Public Service Commission (TNPSC), Teachers Recruitment Board (TRB), etc. In an extra-ordinary situation like the present one, where no lapses could be attributed to the petitioner, the authorities are expected to show little latitude and discretion for advancing the cause of justice. The authorities ought to have accepted the application in order to be fair and reasonable to the petitioner's interest. The default on the part of the higher officials, unfortunately, has resulted in depriving the petitioner of his due promotion as Assistant Accounts Officer. The lapses on the part of the higher official, unfortunately, has affected the legitimate career progression of the petitioner.

12. In the above circumstances, the injustice done to the petitioner and the injury suffered by him, need to be salvaged and ameliorated. It is very surprising that the respondents, instead of accepting the application, considering the fact that the petitioner was not at fault at all and also the last date being a non-working Sunday, are opposing the prayer exhibiting their wooden, rigid and inflexible approach in such matters.

13. In the entirety of the factual narrative as above, this Court has no hesitation in accepting the case of the petitioner. The statement that, grant of relief to the petitioner, however, would invite more claims, cannot be the reason for denying the relief to him.

14. It is needless to mention that the relief to the litigant cannot be denied on the premise that there would be a possibility of flood-gate litigation. Denial of relief on that apprehension, would only result in miscarriage of justice to a litigant who is knocking at the doors of this Court praying for justice.



15. For the above stated reasons, the Writ Petition is allowed.

16. The first respondent/competent authority is directed to pass appropriate orders by including the petitioner's name in the subject panel by accepting his application and grant him promotion as Assistant Accounts Officer for the panel year 2018-2019, if he was otherwise fit.

17. In the event of the petitioner otherwise found fit, he is entitled to all the consequential benefits on notional basis on par with his batch-mates.

18. The first respondent/competent authority, is directed to pass appropriate orders in this regard, within a period of four weeks from the date of receipt of a copy of this order, or on production of a web-copy of this order, whichever is earlier.

19. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

CS
To

1. The Commissioner of Treasuries and Accounts,
Government of Tamil Nadu,
Integrated Complex for Finance Department,
Amma Nilayam, Anna Salai,
Nandanam, Chennai-600 035.
2. The Director of School Education,
DPI Complex, College Road, Chennai-600 006.
3. The Chief Educational Officer,
Thiruvannamalai-606 601.

+1cc to Mr.N.A.Ravindran, Advocate, S.R.No.66549
+1cc to the Government Pleader, S.R.No.67516, 67072

W.P.No.9581 of 2020

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