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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.11.2021

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.14360 of 2020

K.Kowsalya

...Petitioner

Vs.

1. The Director of Co-operative Audit Department,
571, Anna Salai, 2nd Floor,
Amma Complex, Veterinary Hospital Campus,
Nandanam, Chennai - 600 035.
2. The Joint Director,
Co-operative Audit Department,
No.74, V.G.P. Nagar (East),
Salamedu, Villupuram - 605 401,
Villupuram District.

...Respondents

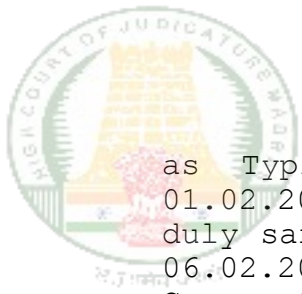
PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records relating to the proceedings in Na.Ka.No.11593/2020/PoNi-3 dated 12.09.2020 passed by the first respondent and the same was served on the petitioner on 21.09.2020 and quash the same and thereby direct the first respondent to include the name of the petitioner in the approved list of Co-operative Audit Officer (CAO) of the year 2019-2020 according to her seniority in the feeder category.

For Petitioner : Mr.B.Sundarapandiyar

For Respondents : Mr.L.P.Shanmugasundaram,
Spl.G.P

ORDER

The case of the petitioner was that she was selected for the post of Typist in the year 2009 and was posted at Ramanathapuram vide proceedings of the first respondent in Na.Ka.No.22114/2009 APA.2 dated 07.08.2009. When she was working



as Typist at Nagapattinam, she took maternity leave from 01.02.2012 to 29.07.2012. The leave obtained by her then was duly sanctioned by the proceedings of the Authority concerned on 06.02.2012. Subsequently, the petitioner was promoted as Junior Cooperative Auditor and posted at Nagapattinam vide proceedings dated 31.07.2014. Thereafter, petitioner was promoted as Senior Co-operative Auditor and posted at Villupuram vide proceedings dated 12.04.2017.

2.The grievance of the petitioner is that her maternity leave had not been treated as service period and in that regard she appeared to have submitted repeated representations. Her representation finally came to be rejected on 12.09.2020 and challenging the same the petitioner is before this Court.

3.The learned counsel who appeared for the petitioner would submit that similarly affected persons had approached this Court in W.P.(MD).No.6545 of 2020 and the said writ petition was allowed on 09.06.2020, wherein a similar order of rejection came to be set aside.

4.Since, the petitioner is also identically placed, she may also be given the benefit of the order passed by this Court in the above mentioned Writ Petition.

5.In response to the Writ Petition a counter affidavit has been filed. The learned counsel for the respondent would submit that in the counter affidavit the case of the petitioner had been acceded to and favourable orders would be passed in the matter. He would rely on the averments contained in para 5 and 6 of the counter affidavit which are extracted hereunder;

"5.It is submitted that the Government have issued clarification in its letter No.49339/Nidhi (Koo.Thai.) Thurai/2020-2, Finance (CA) Department, dated 19.01.2021, wherein the Government have clarified as follows:

4.Based on the above, the employees of the Cooperative Audit Department who have completed their probation within the period prescribed shall be considered for next promotion by considering the leave period availed by the individuals as continuous



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service period and it shall be taken into account.

5. The employees of the Cooperative Audit Department who have completed their regular probation, and then have availed eligible leaves, and those names have not been included in the eligible panel, and also those who approached the Court may be included in their respective panels as per the G.Os., and Rules referred in paragraphs 2, 3 and 4 promotion shall be given to them by fixing their pay notionally and allow monetary benefits from the date of issue of the revised order/letter of revised panel of including their names.

It is submitted that the Government have clarified that the persons who have availed eligible leaves after successfully completed their probation period and excluded in the promotion panels for availing the leave, and who have approached the Court, shall be included in their respective eligible panels and promotion shall be given accordingly. Hence it has been stated that the Government have accepted the prayer of the petitioner, and also clarified to include the other similarly situated persons in their respective eligible panels and requested to issue suitable orders.

6. In this connection it has been submitted that based on the above clarification of the Government, appropriate steps have been taken to admit the prayer of the petitioner and orders will be issued as early as possible.

In view of the reasons stated above it is humbly prayed that this Hon'ble High Court may be pleased to close the Writ Petition as the prayer of the petitioner has been accepted and order of compliance shall be issued as early as possible."

6. In view of the acceptance by the respondents themselves, the Writ Petition stands allowed and the impugned proceedings in Na.Ka.No.11593/2020/Po Ni-3 dated 12.09.2020 is hereby set aside. Consequently, the respondents are directed to include the name of the petitioner in the approved list of Cooperative Audit Officer (CAO). In the year 2019-2020 according to her seniority, as a consequence of treating the maternity leave as sanctioned period.



7. The respondents shall pass appropriate orders in this regard within a period of eight weeks from the date of receipt of copy of this order. No costs.

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Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

mrm

To

1. The Director of Co-operative Audit Department,
571, Anna Salai, 2nd Floor,
Amma Complex, Veterinary Hospital Campus,
Nandanam, Chennai - 600 035.
2. The Joint Director,
Co-operative Audit Department,
No.74, V.G.P. Nagar (East),
Salamedu, Villupuram - 605 401,
Villupuram District.

+1cc to M/s.B.Sundarapandiyan, Advocate, S.R.No.60832

W.P.No.14360 of 2020

KSM(CO)
SU(09/12/2021)