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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.28873 of 2017
and
W.M.P.No.31087 of 2017

M.Narendiran

...Petitioner

Vs

1.The State of Tamil Nadu,
rep. by its Principal Secretary to
Government,
Rural Development and Panchayat raj Department,
Fort St. George, Chennai-9.

2.The Director,
Commissionerate of Rural Development and
Panchayat Raj,
Panagal Building, Chennai-15.

3.The District Collector,
Kancheepuram District,
Kancheepuram.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for entire records relating to G.O.(1-D) No.408, Panchayat Development and Panchayat raj (E-7) department dated 03.08.2015 on the file of the 1st respondent herein in so far as it declares the probation of the petitioner herein w.e.f 05.04.2014 instead of 31.05.2010 and quash the same and consequently direct the respondents herein to forthwith declare the probation of the petitioner herein in the post of Junior Assistant w.e.f 31.05.2010, the date of passing of the department test and pay all monetary benefits w.e.f 01.06.2010.

For Petitioner : Mr.V.R.Rajasekaran

For Respondents : Mr.K.V.Sajeev Kumar
Government Counsel

ORDER

By consent of both the parties, this writ petition is taken up for final disposal.



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2. Through the impugned Government Order in G.O.(1-D) No.408, Panchayat Development and Panchayat Raj (E-7) department dated 03.08.2015 passed by the first respondent herein, the petitioner's probation was declared with effect from 05.04.2014 instead of 31.05.2010, on the ground that the petitioner had belatedly completed the foundational training at the Civil Service Training Institute at Bhavanisagar, Tamil Nadu. Admittedly, the delay in deputing the petitioner for the foundational training was on the part of the respondents on the administrative side.

3. The issue as to whether, the respondents will be justified in declaring the probation from the date of completion of the training, which was belatedly held, came up for consideration before this Court in various cases and this Court had held that the respondents are not justified in declaring the probation on the date of completion of the training. In one such order passed in the case of T.Gunaseela Subramani and 2 others Vs. The Principal Secretary to Government, Commercial Taxes and Registration Department and others passed in W.P.(MD) No.15585 of 2018, dated 29.03.2021, this Court had held as follows:-

"2. The petitioners herein had undergone the foundational training at the Civil Service Training Institute at Bhavanisagar, Tamil Nadu, pursuant to which, their completion of probation was declared through G.O.(D) No.164 Commercial Taxes and Registration Department dated 30.04.2015. Subsequently, the first petitioner was promoted to the post of Assistant on 15.07.2015 and the second and third petitioners were promoted on 01.07.2015 and 13.11.2015 respectively.

3. The petitioners' declaration of probation came to be cancelled through the impugned government order in G.O.(D) No.83 Commercial Taxes and Registration Department dated 26.04.2018, predominantly on the ground that, the petitioners herein had not completed their foundational training within their two years of probation period, as required under Rule 32(a)(1) of the Tamil Nadu Ministerial Service Rules and that their probation requires to be declared from the day following their completion of the foundational training.

3. Rule 32(A)(1) of the Tamil Nadu Ministerial Service Rules reads as follows:-

"32 (A) (1) Every person appointed to a category by direct recruitment shall be on probation for a total period of two years



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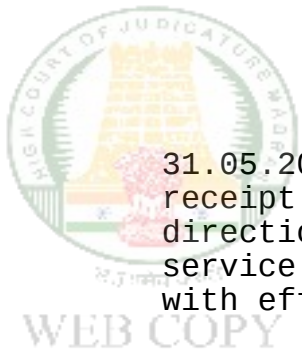
on duty within a continuous period of three years. The individual in the cadre of Junior Assistant is eligible for promotion to the post of Assistant on satisfying the following conditions:-

1. His probation declared successful.
2. His service should be regularized in the cadre of Junior Assistant.
3. He should complete the foundational training at Civil Service Training Institute at Bhavanisagar, Tamil Nadu.
4. He should successfully complete the departmental examination conducted by the Tamil Nadu Public Service Commission."

4. As per the aforesaid Rules, among other conditions, the probationer is required to complete the foundational training at Civil Service Training Institute, at Bhavanisagar, within the probationary period. As per Rule 26(A) (2) of the Tamil Nadu Ministerial Service Rules, the date of passing of the foundational training or departmental tests, is significant for declaration of probation. The said Rules reads as follows:-

"26 (A) (2) in cases where the passing of an examination or test confers on a Government Servant the title to any right, benefit or concession, such title should be deemed to have accrued on the day following the last day of the examination or test which the passed. In cases where the examination or test can be passed in installments, the title to the right, benefit or concession will be deemed to have accrued on the day following the last day of the examination in the subject or subjects in which he had passed."

5. Admittedly, the mandatory foundational training at the Civil Service Training Institute at Bhavani Sagar was belatedly held and the petitioners were not deputed for the training, during their period of probation. Such a statement is ratified in the G.O.(D)No.164, Commercial Taxes and Administration Department dated 30.04.2015, as well as in the counter affidavit filed before this Court. The provisions of Rule 32 would apply to such probationers, who



31.05.2010, atleast within a period of 4 weeks from the date of receipt of a copy of this order. In view of the aforesaid direction, the petitioner shall also be entitled for all the service and monetary benefits to which he may be entitled to, with effect from 31.05.2010.

6. The writ petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

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Sub Assistant Registrar

hvk

To

1.The Principal Secretary to Government,
Rural Development and Panchayat raj Department,
Fort St. George, Chennai-9.

2.The Director,
Commissionerate of Rural Development and
Panchayat Raj,
Panagal Building,
Chennai-15.

3.The District Collector,
Kancheepuram District,
Kancheepuram.

+1cc to Mr.V.R.Rajasekaran, Advocate SR.No.36900

+1cc to the Government Pleader SR.No.36964

W.P.No. 28873 of 2017
and
W.M.P.No.31087 of 2017

GPL(CO)
RVM(26/08/2021)