



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No.11089 of 2020

and

W.M.P. (MD) Nos.9715, 9717 and 13642 of 2020

S.Rajendran

... Petitioner

versus

1.The Chief Educational Officer,
O/o. the Chief Educational Office,
Dindigul District.

2.The District Educational Officer,
O/o. the District Educational Office,
Batlagundu,
Dindigul District.

3.The Block Educational Officer,
O/o. the Block Educational Office,
Kodaikanal,
Dindigul District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.3275/AA1/2020 dated 25.08.2020 and quash the same as illegal.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.A.Kannan,
Additional Government Pleader

ORDER

This writ petition has been filed as against the order passed by the second respondent in Na.Ka.No.3275/AA1/2020 dated 25.08.2020, in and by which, the second respondent cancelled the promotion order dated 01.12.2018 that the petitioner is not eligible for promotion as his probation was declared only in the month of May 2019.

2. The learned counsel appearing for the petitioner submits that the petitioner was appointed as Sweeper on 26.11.2012 in



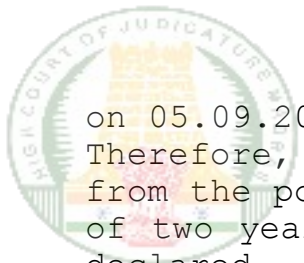
Government High School, Balasamuthiram, Dindigul District. Though the period of probation is two years from the date of appointment, the petitioner's probation was not declared on completion of his two years of service due to administrative reasons. However, by proceedings in Na.Ka.No.1171/A1/2019, dated Nil.05.2019, the petitioner's probation was declared with effect from 25.11.2014. In the meantime, the petitioner was promoted as Record Clerk on 05.09.2019, considering his unblemished service. However, the second respondent passed the order impugned in this writ petition dated 25.08.2020 cancelling the promotion of the petitioner and reverting him from the post of Record Clerk to the post of Sweeper. Challenging the same, the present writ petition has been filed.

3. The learned Government Advocate appearing for the respondents submits that the petitioner was appointed as Sweeper, which falls under category of 5 of Class III of the Tamil Nadu Basic Service. Subsequently, the petitioner was promoted as Record Clerk and this post falls under category 1A of the Tamil Nadu General Subordinate Service. The terms and conditions of service of the posts falling under the Tamil Nadu General Subordinate Service are stipulated in another set of Special Rule known as Special Rules for Class XXII of the Tamil Nadu General Subordinate Service, issued in exercise of the power conferred by the Proviso to Article 309 of the Constitution of India. All matters concerning the posts in the Tamil Nadu Basic Service, such as their constitution, appointing authority, method of recruitment, qualifications prescribed for appointment, probation, discharge and postings and transfers, are governed by a set of Special Rules known as the Special Rules for Tamil Nadu Basic Service, issued in exercise of the powers conferred by the Proviso to Article 309 of the Constitution. According to the petitioner, his probation was declared after the crucial date. But, the petitioner did not fulfill the requirements to be considered for promotion to the post of Record Clerk on the crucial date i.e. on 01.12.2018.

4. The learned Government Advocate appearing for the respondents submits that the promotion granted to the petitioner is irregular and in violation of condition of the service and therefore, he was reverted to the post of Sweeper by the impugned proceedings dated 25.08.2020 and the reversion is purely an administrative matter. He further submits that as per Special Rules for Class XXII of the Tamil Nadu General Subordinate Services, the qualification prescribed for promotion of Record Clerk through Direct Recruitment is that persons should have been declared their probation on the crucial date for promotion.

5. This Court paid its anxious consideration to the rival submissions made.

6. The petitioner was appointed as a Sweeper in the year 2012. <https://hdc.mca.gov.in/indices> of seven years, he has been promoted as Record Clerk



on 05.09.2019. The probation was declared in the month of May 2019. Therefore, by the impugned proceedings, the petitioner was reverted from the post of Record Clerk to the post of Sweeper. On completion of two years from the date of appointment, the probation has to be declared. In this case, the probation of the petitioner was declared only in the month of May 2019, however, with effect from 25.11.2014 the due date on which his probation ought to have been declared.

7. It appears that the Scavengers Welfare Association filed a writ petition in W.P.(MD)No.17663 of 2014 before this Court and the same was allowed by this Court on 25.01.2018 that the petitioner and others are entitled to the benefits of pay revision and placement in the higher pay scale notionally from the date of their appointment with monetary benefits from the date of passing of the order. May be due to the pendency of the writ petition or on some other administrative reasons, the probation of the petitioner has not been declared in the year 2014 on his due date. However, the probation has been declared with effect from 25.11.2014. It is not the case of the respondents that the petitioner has suffered with any punishment or any other charges and therefore, his probation has not been declared on his due date. When the probation of the petitioner has been declared with effect from 2014, the respondent is not justified in reverting the petitioner from the post of Record Clerk to the post of Sweeper in the year 2020 and that too without issuing any notice. Therefore, the impugned proceedings dated 25.08.2020 is liable to be set aside and accordingly, the same is quashed and the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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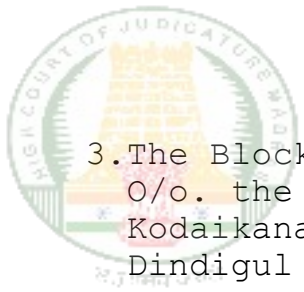
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Sub Assistant Registrar(CS)

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3.The Block Educational Officer,
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+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-34519[F]
dated 15/11/2021)

+1 CC to M/s.SPL GP (SR-34583[F] dated 16/11/2021)

W.P(MD)No.11089 of 2020
15.11.2021

PS (CO)

GC(20.12.2021) 4P 6C