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WP Nos.12225 to 12228 and 12254 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-10-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP Nos.12225 to 12228 and 12254 of 2016

And

WMP Nos.10559 to 10566, 10591 and 10592 of 2016

K.Subramanian	..	Petitioner in WP No.12225/2016
K.Thamizharasan	..	Petitioner in WP No.12226/2016
M.Rajendran	..	Petitioner in WP No.12227/2016
P.Natesan	..	Petitioner in WP No.12228/2016
V.Velumsay	..	Petitioner in WP No.12254/2016

vs.

1.The Additional Secretary to Government of Tamil Nadu,
Home (Pol.XV) Department,
Fort St. George,
Chennai – 600 009.

2.The Principal Secretary to Government of Tamil Nadu,
Finance (Pay Cell) Department,
Fort St. George,
Chennai – 600 009.

3.The Director General of Police,
Mylapore,



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Chennai – 600 004.

4.The Additional Director General of Police,
Armed Police,
Kilpauk,
Chennai – 600 010.

5.The Commandant,
TSP 1st Battalion,
Trichy District,
Trichy.

..

Respondents in all WPs

Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of Writs of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent herein namely the Additional Secretary to Government, Home (Pol.XV) Department, Secretariat, Chennai 600 009, bearing No.32042/Pol.XV/2013-4 dated 17.01.2014 and quash para 4 of the said letter in so far as it denies the chance of promotion of the petitioners to the post of Office Assistant by transfer of service and consequently direct the respondents herein to promote the petitioners to the post of Office Assistant by transfer of service within a short date that may be fixed by this Court and consequently direct the respondents herein to re-fix the pay of the petitioners in the post of Cook at Rs.1,300/- per month.

For Petitioner in all WPs : Mr.K.S.Govinda Prasad

For Respondents in all WPs : Mr.S.Rajesh,
Government Advocate.



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4. The learned Government Advocate, appearing on behalf of the respondents, objected the said contentions raised on behalf of the learned counsel for the petitioners by stating that the post of Cook and Office Assistant carry different scales of pay. Therefore, as per the Government policy, the Cook appointed cannot be further appointed as Office Assistant by way of transfer of service. Only if the cadres carry identical scale of pay, then alone such appointment by way of transfer of service can be granted and not otherwise.

5. In this context, the respondents have stated that the Cooks are drawing Grade Pay of Rs.1,400/- and the post of Office Assistant carry the Grade Pay of Rs.1,300/-. Therefore, the petitioners are receiving more Grade Pay than that of the Office Assistants and thus they are not eligible for appointment by way of transfer of service.

6. The method of appointment by way of transfer is defined in General Rule 15-B of Part I of Tamil Nadu State and Subordinate Service



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Rules as follows:-

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“A member of a service is said to be appointed by transfer when the appointment is made from one category to another category in the same service carrying identical scale of pay.”

7. In Rule 3(a) of Special Rules for Tamil Nadu Basic Services, appointment shall be made by transfer from Class IV. When the post in Class IV category carry identical scale of the post of Office Assistant in Class III, they will be eligible for appointment by way of transfer to the post of Office Assistant.

8. However in all these cases, the petitioners, who all are holding the post of Cooks, are receiving the higher Grade Pay of Rs.1,400/- and therefore, they are not eligible for appointment by way of transfer of service to the post of Office Assistant.

9. The General Rule itself is unambiguous that the scale of pay must be identical between these two cadres. When the scale of pay is not



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identical, then the appointment by way of transfer of service is impermissible.

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10. This being the facts and circumstances, the order of rejection issued by the respondents is in consonance with the Service Rules as applicable to the post of the writ petitioners. Thus, there is no infirmity, as such, sought for in all these writ petitions.

11. Accordingly, all the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

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Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

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S.M.SUBRAMANIAM, J.

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