



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-06-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.10379 of 2014

Tmt.P.Santhi

.. Petitioner

vs.

The Principal Secretary to Government,
Personnel and Administrative Reforms Department,
State of Tamil Nadu,
Secretariat,
Chennai - 600 009.

.. Respondent

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the respondent's proceedings in G.O.(4D) No.39, Personnel and Administrative Reforms (H1) Department, dated 28.05.2013 and quash the same and direct the respondent to include the petitioner name in the Panel of Assistant Section Officers fit for appointment as Section Officers issued in G.O.(4D) No.35, P&AR (H) Department, dated 30.08.2012 and to appoint the petitioner as Section Officer by recruitment by transfer for the year 2011-2012 and place her in appropriate place in the seniority list of Section Officer with all service and monetary benefits on par with her immediate junior.

For Petitioner : Mr.M.Muthappan

For Respondent : Ms.S.Anitha,
Special Government Pleader.

O R D E R

The panel of Assistant Section Officers fit for appointment as Section Officers for the year 2011-2012 in Tamil Nadu Secretariat Service issued in G.O.(4D) No.35, Personnel and Administrative and Reforms Department, dated 30.08.2012, is under challenge in the present writ petition.



2. The petitioner was appointed as Personal Clerk in the Labour and Employment Department of Secretariat through Tamil Nadu Public Service Commission. She joined in the Secretariat Service on 19.08.1994. She was allotted to P&AR Department with effect from 26.08.1994. The services of the petitioner was regularised in the post of Personal Clerk in G.O.Ms.No.209, Labour and Employment Department, dated 10.11.1995 with effect from 19.08.1994. The petitioner was promoted to the post of Assistant Section Officer with effect from 09.07.2007. The next avenue for promotion is to the post of Section Officer and the petitioner was waiting for her promotion in the order of seniority.

3. The respondent has prepared a panel of Assistant Section officers fit for appointment as Section Officers for the year 2011-2012. The respondent found that the writ petitioner possessed the qualification of M.A. from Open University and the said Open University Degree was declared as invalid by the Hon'ble Supreme Court of India in Annamalai University vs. Secretary to Government, Information and Tourism Department [2009 (4) SCC 590]. The said judgment of the Supreme was implemented by the Government of Tamil Nadu. Accordingly, the Open University Degrees granted without undergoing the regular pattern of education i.e., 10+2+3 became invalid. It is not in dispute that the writ petitioner acquired the Master Degree without undergoing the regular degree course of 3 years. Therefore, the M.A. Degree acquired by the writ petitioner became invalid. Hence, her name was not included for promotion to the post of Section Officer in the panel of the year 2011-2012.

4. The learned Special Government Pleader appearing on behalf of the respondent brought to the notice of this Court that subsequently, the writ petitioner possessed the requisite qualification of degree through Correspondence Education and accordingly her name was considered in the panel of the year 2014-2015 and she was promoted to the post of Section Officer in G.O.(4D) No.27, Personnel and Administration Department, dated 30.06.2016.

5. As far as the impugned panel is concerned, as on the date of the publication of panel, admittedly, the petitioner was possessing the Open University M.A. Degree, which is invalid as per the judgment of the Supreme Court and based on the orders issued by the Government, implementing the Supreme Court judgment. When an employee is not qualified in accordance with the Rules in force at the time of publication of panel, then the authorities have rightly not included the name of the writ petitioner. The ground raised by the petitioner that the crucial



date is to be taken into consideration is irrelevant as even after the crucial date, if it is found that the employee is not qualified for promotion or charges or facing disciplinary proceedings or otherwise, the authorities are well within their powers not to include the name of such an employee for further promotion. For all purposes, an employee at the time of publication of panel and at the time of passing an order of promotion must be qualified and any disqualification found in between is a ground for deleting the name of the person from the panel or otherwise.

6. This being the principles to be followed, the respondent found that at the time of publication of panel, the petitioner was not possessing the requisite qualification of degree and the Rule was amended before the publication of panel and thus there is no infirmity as such in respect of the order impugned passed. However, the petitioner acquired qualification subsequently and promoted to the post of Section Officer in order dated 30.06.2016. In view of the facts and circumstances, the petitioner is not entitled for retrospective promotion.

7. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

Svn

To

The Principal Secretary to Government,
Personnel and Administrative Reforms Department,
State of Tamil Nadu,
Secretariat,
Chennai - 600 009.

+1cc to Mr.M.Muthappan, Advocate SR.No.34365

+1cc to Government Pleader SR.No.34856

WP 10379 of 2014

KJ(CO)
GMY(05/07/2022)