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W.P.No.4021 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4021 of 2017
and
W.M.P.No.4120 of 2017

C.Sulochana

...Petitioner

Vs.

1.The Principal Secretary to Government
Finance, Treasury Accounts Department-II,
Fort St.George,
Chennai – 600 009.

2.The Director,
Department of Treasury & Accounts,
Panagal Building, Saidapet,
Chennai – 600 015.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 10.11.2016 Ref.No.Na.Ka.34212/N2/2015 issued by the 1st respondent and quash the same and consequently direct the respondent authorities 1 & 2 to grant notional promotion to the petitioner to the post of Assistant Treasury Officer with effect from 25.2.2014 viz date



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of G.O.Ms.No.51 dated 25.2.2014 and grant all consequential salary and retirement benefits to the petitioner together with arrears, within a time to be fixed by this Honble Court.

For Petitioner : Ms.M.Periyanayagi
For Mr.S.Thanka Sivan

For R1 & R2 : Mr.P.Sanjay Gandhi
Government Advocate

ORDER

The order of rejection rejecting the claim of the writ petitioner for promotion to the post of Assistant Treasury Officer with effect from 25.02.2014 is under challenge in the present writ petition.

2. The petitioner was employed as Superintendent in the Pay and Accounts Office – North, Chennai – 600 001. Till February 2014, the pre-condition for granting promotion to the post of Assistant Treasury Officer from the post of Superintendent was that one year training in the Sub-Treasury Office should be undergone by the Superintendents. In this regard, the Superintendents who were willing to get promotion / empanel in the seniority list for promotion as Assistant Treasury Officers were shifted / transferred as posted in Sub-Treasury Offices.



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3. In view of the mandatory requirement of training for one year for the purpose of promotion to the post of Assistant Treasury Officer, many of the Superintendents relinquished their right for promotion temporarily under Rule 47 of the General Rules for Tamil Nadu State and Subordinate Service Rules. The petitioner states that she is fully qualified for promotion subject to training in Sub Treasury office. She could not undergo such training in Sub Treasury office in mouffisil Districts, in view of the fact that she was having school going children and her husband was also employed in Chennai. Shifting of her services to mouffisil area would cause great inconvenience to her and under those compelling circumstances, she had temporarily relinquished her right for promotion under Rule 47 of the General Rules .

4. The learned Government Advocate appearing on behalf of the respondents brought to the notice of this Court that the petitioner has relinquished her rights permanently for Assistant Treasury Officer from 28.12.2013. In this regard, Paragraphs 5 and 7 of the counter affidavit are extracted hereunder:



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“5. With regard to the averment made by the petitioner in paragraphs 4 & 5 of the affidavit, it is submitted that the contention of the petitioner in these paragraphs of the affidavit is correct. The petitioner has submitted that due to her family circumstances she herself relinquished her right for promotion as Assistant Treasury Officer / Senior Superintendent temporarily for the period from 28.12.2013 under Rule 47 of General Rules for subordinate services. Actually as per the records of the 2nd respondent herein, the petitioner has relinquished her rights permanently from 28.12.2013 for promotion to the post of Assistant Treasury Officer and the same has been accepted by the 2nd respondent in Rc.No.9341/13/N1, dated 31.01.2014 and the order had been communicated to the petitioner through the head of the office in which she worked. Since the petitioner has permanently relinquished her rights for promotion for Assistant Treasury Officer / Senior Superintendent her name would not be considered for further promotion for Assistant Treasury Officer / Senior Superintendent forever.

7. With regard to the averment made by the petitioner in paragraph 7 of the affidavit, it is submitted that as the Government i.e., the 1st respondent herein have issued orders that no specific training is necessary for the promotion of



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Assistant Treasury Officer / Senior Superintendent in G.O.(Ms).No.51, Finance (Treasuries and Accounts-II) Department, dated 25.02.2014, subsequently Government has clarified in the Letter No.3090/T & A II/2015 -I, dated 23.03.2015 that those who have relinquished permanently the rights for Assistant Treasury Officer / Senior Superintendent promotion, they could not get promotion not only for the year 2014-15 but also throughout their service and those who have relinquished temporarily the rights for promotion for the post of Assistant Treasury Officer / Senior Superintendent, they could be considered on completion of temporarily relinquishment period. In this regard, it is submitted that the petitioner herein viz., Tmt.C.Sulochana, Superintendent (Retd) has relinquished her rights permanently for Assistant Treasury Officer / Senior Superintendent promotion from 28.12.2013. Hence, the petitioner herein could not get promotion not only for the year 2014-15 but also throughout her service.”

5. That apart, the petitioner had not undergone the mandatory training of one year in the post of Sub-Treasury Officer. The relief sought for in the present writ petition is to promote the writ petitioner as Assistant Treasury Officer in the panel of the year 2014-15.



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6. The fact remains that the petitioner has relinquished her right of promotion permanently for Assistant Treasury Officer from 28.12.2013. Thus, she was not considered for promotion not only for the year 2014-15, but also throughout her service. Therefore, the petitioner lost the opportunity of promotion on her volition and thus, there is no infirmity in respect of the order impugned passed by the respondents and the writ petitioner has not established any acceptable reason for the purpose of grant of notional promotion.

7. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.10.2022
(2/2)

Index : Yes
Speaking order: Yes
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To
1. The Principal Secretary to Government
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2.The Director,
Department of Treasury & Accounts,
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S.M.SUBRAMANIAM, J.

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