



W.P.No.7965 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.7965 of 2017

V.Amsaveni

...Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Environment and Forests Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Principal Chief Conservator of Forests,
Panagal Maligai, Saidapet,
Chennai - 600 015.

3.The District Forest Officer,
Dharmapuri - 636 705.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to consider and pass orders on the representation of the petitioner dated 05.12.2016 in the light of G.O.(3D) 53, Environment & Forests (F9) Department, dated 26.07.2013, to declare the completion of probation on 14.12.1989, granting all the benefits accrued from the date of appointment of the petitioner.



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For Petitioner : Mr.M.Sivavarthanan

For Respondents : Mr.M.Shahjahan,
Special Government Pleader

ORDER

Heard Mr.M.Sivavarthanan, learned counsel for the petitioner and Mr.M.Shahjahan, learned Special Government Pleader for the respondents.

2. Though the petitioner's services were regularized from the date of her initial appointment, i.e. from 14.12.1989 onwards, her probation came to be declared only with effect from 27.08.2013 on the ground that she had completed the Bhavanisagar Training only on that date. This order of belated declaration of probation is put under challenge in the present writ petition.

3. The petitioner was appointed as Junior Assistant on compassionate grounds on 11.12.1987 and she had joined duty on 14.12.1987. After about 10 years, she was subjected to disciplinary action under Section 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. Ultimately, she was imposed with a punishment of removal from service by the third respondent



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on 31.12.1997. The challenge to the order of dismissal before this Court was set aside through an order dated 21.01.2010 passed in W.P.No.35537 of 2006. Thereafter, through G.O.(3D) No.53, Environment and Forests (F-9) Department, dated 26.07.2013, the petitioner's services were regularized from 14.12.1987 onwards. However, through the proceedings dated 03.07.2014, the third respondent had declared the petitioner's probation with effect from 27.08.2013 by stating that she completed her Bhavanisagar Training only from that date and therefore, she is entitled for declaration of probation only from 27.08.2013.

4. Rule 32(a)(1) of the Tamil Nadu Ministerial Service Rules provides that, every person appointed to a category by direct recruitment shall be on probation for a period of two years on duty within a continuous period of three years, subject to certain conditions. One of the conditions is that the individual should complete the foundational training at Civil Service Training Institute at Bhavanisagar, Tamil Nadu.

5. For the sake of convenience, Rule 32(a)(1) of the Tamil Nadu Ministerial Service Rules is extracted hereunder:-



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"32. Probation:-

(a)(i) Every person appointed to a category by direct recruitment, shall be on probation for a total period of two years on duty within a continuous period of three years:

Provided that a Grama Sevak shall be allowed to count a period not exceeding one year of his satisfactory service as Grama Sevak towards the probation of two years prescribed for Junior Assistants under this rule;

Provided also that in the case of persons taken over from the Government of India to the National Employment Department on the 1st November 1956 shall not be required to undergo the prescribed period of probation, if they have rendered satisfactory service for a period of two years on the 1st November 1956 and in the case of others the service rendered by them prior to the 1st November 1956, shall count towards the prescribed period of probation:

Provided also that service rendered in the post of Store-keeper in the grade of Assistant or in the post of Accountant in the grade of Assistant or in any other post in the grade of Assistant in the Tamil Nadu Ministerial Service in the Industries



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Department shall count towards the period of probation in the post of Assistant in the Industries Department and Vice Versa:

Provided also that probationers in the category of Junior Assistants, Typists, Stenotypists, Assistants, Accounts Assistants, Superintendents, Managers, Commercial Accountants and Auditors in the Industries Department shall be entitled to count towards probation in the said categories in the Industries Department, the service rendered by them on or after 1st December 1965, in a corresponding post in any other body incorporated or not, which is wholly or substantially owned or controlled by the State Government if, but for such service they would have rendered service in the said categories in the Tamil Nadu Ministerial Service in the Industries Department.

Provided also that the service rendered in the post of Assistant or in the post of Accountant in the Training Branch of the Employment and Training Department shall count towards probation in the post of Store-keeper.

Provided also a person appointed to the post of Commercial Accountant Grade I by transfer from



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the category of Superintendent in the Dairy Development Department shall not be required to undergo the probation prescribed by this sub-rule;

Provided also a person appointed to the post of Commercial Accountant Grade II in the Dairy Development Department by transfer from the category of Assistant or similar posts carrying same scale of pay in the Tamil Nadu Ministerial Service or by promotion from the category of Junior Assistants who has rendered a satisfactory service for a period of not less than three years in Tamil Nadu Ministerial Service, shall not be required to undergo the probation prescribed by this sub-rule.

Provided also that a member of the service appointed to the post of Junior Assistant shall be allowed to count the period of Foundational Training undergone by him, towards the prescribed period of probation.

Provided also that a person appointed to the post of Junior Assistant by recruitment by transfer shall, from the date on which he joins duty be on probation for a total period of two years on duty within a continuous period of three years.

Provided also that a member of the service appointed to the post of Assistant by direct



recruitment shall be allowed to count the period of Foundational Training undergone by him, towards the prescribed period of probation."

6. When some of the Government employees, who were subjected to the foundational training at Bhavanisagar after a period of three years and whose probation were declared belatedly after three years, had approached this Court, several orders were passed in their favour by holding that the probation requires to be declared on completion of the two years period from the date of their initial appointment, within a period of three years and that the belated deputation of the training programme by the respondents cannot be put against these employees.

7. Some of the orders passed are in the cases of ***T.Gunaseela Subramani and 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*** and ***S.Ramesh Vs. The Secretary to Government, Revenue and Disaster Management Department and others passed in W.P.Nos.1986 & 1987 of 2018, dated 28.07.2021.***



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WEB COPY 8. The object behind passing of these orders is in view of Rule 32(a)(1) of the Tamil Nadu Ministerial Service Rules, which provides that a member of the service appointed to the post of Assistant by direct recruitment shall be allowed to count the period of foundational training undergone by him, towards the prescribed period of probation.

9. In the present case, it is not in dispute that the petitioner was appointed on 11.12.1987 and she had also joined in the duty on 14.12.1987. Till 07.10.1997, she was not deputed to undergo the foundational training at Bhavanisagar. It is only on 08.10.1997 the charges were framed against her under Rule 17(b) and ultimately, the punishment that was imposed on 31.12.1997 was also set aside by this Court on 21.01.2010.

10. The third respondent, in the counter affidavit, had taken a stand that since the petitioner had belatedly completed the Bhavanisagar training on 27.08.2013, she would be entitled for declaration of probation only from that date. A further reference is also made to certain punishments that were imposed from 1992 onwards. Such punishments, which were after the



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completion of three years period, would have no relevance for the purpose of determining as to whether the petitioner's probation requires to be declared after completion of two years within the three years service period. When the respondents have failed to depute the petitioner to undergo the foundational training within that period, she would be entitled for declaration of probation from 14.12.1989, which is the date on which she would have completed the two years period from the date of her joining in the duty.

11. In the light of the above observations, there shall be a direction to the first respondent herein to pass appropriate orders declaring the petitioner's probation with effect from 14.12.1989 and consequently grant all the service and monetary benefits accruing out of such declaration of probation to the petitioner. Such orders shall be passed atleast within a period of four (4) weeks from the date of receipt of a copy of this order.

12. Accordingly, the Writ Petition stands allowed. No costs.

06.12.2022

Index:Yes
Speaking order
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M.S.RAMESH,J.

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To

- 1.The Secretary to Government,
State of Tamil Nadu,
Environment and Forests Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Principal Chief Conservator of Forests,
Panagal Maligai, Saidapet,
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