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W.P.No.22370 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22370 of 2017

R.Ganesan

...Petitioner

Vs.

The Principal Secretary /
Transport Commissioner,
Chepauk,
Chennai – 600 005.

..Respondent

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the respondent herein in his Procs.No.45700/R3/2014 (E.O.No.24/2017) dated 06.01.2017 rejecting the petitioner's request for declaration of probation with effect from 11.08.2011 and the consequential order passed by the respondent herein his Procs. No.47533/R3/2016 (E.O.No.417/2017) dated 17.07.2017 rejecting the petitioner's request for inclusion of name in the panel of fully qualified Junior Assistants/Typist/Steno Typists fit for promotion as Assistants and quash the same and consequently direct the respondent herein to declare the petitioner's probation as deemed to have been completed with effect from 11.08.2011 and to promote the petitioner as Assistant for the year 2012-2013 with all consequential service and monetary benefits.



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For Petitioner : M/s.Ravi Shanmugam
For Respondents : Mr.R.P.Murugan Raja
Government Advocate

ORDER

The order of rejection rejecting the claim of the writ petitioner for declaration of probation on completion of two years and for consequential fixation of seniority and promotion are under challenge in the present writ petition.

2.The petitioner joined in Government services as Typist as he was selected through the Tamil Nadu Public Service Commission on 05.08.2009. The petitioner joined the service as Typist on 12.08.2009. Necessary entries were made in the Service Register of the writ petitioner regarding the computer course underwent by him i.e., Computer Literacy Program in Government Law College, Madurai. In view of the fact that the petitioner underwent computer course in Government Law College, Madurai, the Regional Transport Officer, Theni made entry in the Service Register of the writ petitioner and consequently, declared the probation of the writ petitioner w.e.f. 11.08.2011 on completion of two years of services in the post of Typist.

3.Thereafter, the services of the writ petitioner was regularized w.e.f.



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12.08.2009 and he was placed in S.No.22 in the seniority list.

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4.The Regional Transport Officer, Theni had cancelled the order of declaration of probation on the ground that the petitioner has not passed the Certificate Course in Computer on Office Automation which is the post appointment requisite qualification as per the Government Orders issued in G.O.Ms.No.130, dated 22.07.2008 and G.O.Ms.No.43, dated 17.04.2009. The petitioner submitted a representation questioning the cancellation of probation. Meanwhile, the petitioner passed the certificate course in Computer on Office Automation awarded by the Directorate of Technical Education on 24.06.2012. Since the petitioner had passed the said post appointment requisite course on 24.06.2012, the Regional Transport Officer, Theni again declared the probation of the writ petitioner w.e.f. 25.06.2012, the date on which the petitioner passed the post-requisite qualification of Certificate Course in Computer on Office Automation.

5.The panel for the year 2011-12 for promotion to the post of Assistant/Accountant was published on 20.03.2012, wherein, the name of the juniors were included and the juniors were promoted in advance. However, the



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petitioner was promoted to the post of Assistant on 28.02.2013 and he was posted as Accountant. The petitioner submitted an Appeal to declare his probation with retrospective effect and to restore his original seniority as fixed by the Regional Transport Officer, Theni. A Show Cause Notice was issued to the petitioner and the petitioner submitted his explanation to the Show Cause Notice, dated 06.10.2015. An additional reply to the Show Cause Notice was also submitted by the writ petitioner on 30.10.2015. Since no orders were passed, the petitioner filed W.P.No.21792 of 2016 and this Court directed the respondent to pass final order on the explanation submitted by the writ petitioner to the Show Cause Notice. Pursuant to the order of this Court, the impugned orders dated 06.01.2017 and 17.07.2017 were passed. The impugned orders of rejection were issued on the ground that the petitioner had completed the Certificate Course only in June 2012 and therefore, he is not eligible for promotion as Assistant with retrospective effect on par with his batch mates who were recruited through Tamil Nadu Public Service Commission during the year 2009.

6.The learned counsel for the petitioner mainly contended that passing of the certificate course in Computer on Office Automation is not pre-requisite qualification for appointment to the post of Typist. Accordingly, the petitioner was



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selected and appointed. His probation was also rightly declared by the Regional Transport Officer, Theni. Thus, the cancellation of probation was perverse and the appeal filed by the petitioner which was pursued continuously was rejected in violation of the Government Orders in force and thus, the writ petition is to be considered.

7. Let us consider the qualifications prescribed by the Government, both pre-requisite and post-requisite. There is no dispute with reference to the pre-requisite qualifications as the petitioner possessed the same and accordingly, was selected and appointed to the post of Typist. Regarding the post appointment requisite qualification, the conditions stipulated by the Government in its order issued in G.O.Ms.No.130 (Personnel & Administrative Reforms (S) Department), dated 22.07.2008, is to be considered. The Government prescribed computer qualification for Typist / Steno-Typist, in view of the fact that the Government Offices are equipped with information technology which requires knowledge in computer and thus, it is made as a post-requisite qualification for the employees, who all are appointed as well as employees, who all are working. Para 2 (i) of the Government Order unambiguously stipulates that “Candidates who do not possess



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the said qualification conducted by Technical Education Department may also apply. If selected, they should acquire such qualification within the period of their probation. The probation will be declared in their cases only after getting a pass in the said Certificate Course. Otherwise they will be dealt with as per the provision under General Rule 27 of Tamil Nadu State and Subordinate Services.”

8.The above conditions clarifies that the candidates who did not possess the qualification of Compute Certificate in Computer on Office Automation conducted by the Technical Education Department may also apply for selection to the post of Typist / Stenographer. Thus, there is no impediment to participate in the process of selection for appointment to the post of Typist/Stenographer in the absence of possessing the qualification of Certificate Course in Computer on Office Automation. However, if such candidates who do not possess the qualification of certificate course got selected then, they should acquire the said qualification within the period of their probation. It is not in dispute that the period of probation is two years from the date of joining. The petitioner admittedly joined in the post of Typist on 12.08.2009. Thus, he ought to have completed the said course within a period of two years from the date of joining. In the present



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case, the Regional Transport Officer, Theni had erroneously declared the probation of the writ petitioner without verifying the post appointment requisite qualification to be acquired by the petitioner within a period of two years from the date of joining. However, the said order of probation was cancelled by the Regional Transport Officer, Theni himslef and thereafter, the petitioner passed the Certificate Course in Computer on Office Automation on 24.06.2012.

9.G.O.Ms.No.130, dated 22.07.2008, further clarifies that if the candidate, who was selected had not passed the certificate course within a period of probation then the probation will be declared only after getting a pass in the said certificate course. Thus, it is made clear that, if any candidate failed to acquire the qualification within a period of probation, then he can pass even thereafter, but his probation to be declared, only after passing of the Certificate Course. Even thereafter, if any candidate has not passed the certificate course then will be dealt with as per the provision under General Rule 27 of Tamil Nadu State and Subordinate Services Rules. Such a situation did not arise at all in the present case of the writ petitioner.



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10. In the case of the writ petitioner, he joined as Typist on 12.08.2009 and admittedly he passed the certificate course in Computer on Office Automation only on 24.06.2012 after a period of two years of probation. The Regional Transport Officer, Theni erroneously declared the probation which was cancelled. However, after passing the certificate course on 24.06.2012, the probation of the writ petitioner was declared on 25.06.2012, the next day itself. Thus, this Court does not find any infirmity in respect of the declaration of the probation of the writ petitioner in the post of Typist as it was done in consonance with the G.O.Ms.No.130 (Personnel & Administrative Reforms (S) Department), dated 22.07.2008. There was a delay on the part of the petitioner in passing the certificate course, which is the post appointment requisite qualification which must be acquired within a period of two years of probation and the petitioner acquired the qualification after completion of two years of probation period and therefore, there was a delay in declaring the probation and such a delay occurred on own volition of the writ petitioner and not at the instance of the Department. That being the factum established, the petitioner is not entitled for the relief as such sought for in the present writ petition.



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11. Accordingly, this writ petition stands dismissed. No Costs.

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Index : Yes
Internet : Yes
Speaking order : Yes
ssr

To

The Principal Secretary /
Transport Commissioner,
Chepauk,
Chennai – 600 005.



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S.M.SUBRAMANIAM, J.

SSR

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