



W.P(MD)Nos.14361 to 14363 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.14361 to 14363 of 2021

and

W.M.P.(MD)Nos.11308, 11311 & 11313 of 2021

M.Muthulakshmi ... Petitioner in W.P.(MD)No.14361 of 2021
G.Yogeswari ... Petitioner in W.P.(MD)No.14362 of 2021
P.Ilakkiya ... Petitioner in W.P.(MD)No.14363 of 2021

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road, Thousand Lights West,
Nungambakkam,
Chennai-600034.
 - 2.The Additional Commissioner (General),
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road, Thousand Lights West,
Nungambakkam,
Chennai-600034.
 - 3.The Regional Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai-1.
 - 4.The Deputy Commissioner / The Executive Officer,
Arulmigukallazhagar Temple,
Alagarkovil,
Madurai-625301.
- ... Respondents in all W.Ps.



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Common Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the 1st respondent through proceedings in OO.Mu.No.13479/2021/Z1 dated 12.07.2021 and consequential Impugned Order passed by the 4th Respondent through proceedings in Na.Ka.No.85/2019/A5 dated 17.07.2021 and directing the Respondents to promote the petitioner to the post of Junior Assistant.

For Petitioner : Mr.C.M.Mari Chelliah Prabhu
For R1 to R3 : Mr.J.Ashok
Additional Government Pleader
For R4 : Mr.K.R.Laxman
(in all W.Ps)

COMMON ORDER

Heard the learned counsel on either side.

2. The writ petitioners are employed as “Para Staff” in Arulmigu Kallazhagar Temple, Alagarkovil Madurai. The Government notified Tamil Nadu Hindu Religious Institution (Officers & Servants) Service Rules, 2020 with effect from 04.09.2020. Thereafter, Category-XI posts namely Duffador, Officer Assistant, Last Grade Servant & Thalaiyari became promotional posts for those holding the post of Para. The post of Junior Assistant was classified under Category-VI. The basic contention of the writ petitioners is that before the new Rules came into force, the post of Junior Assistant was very much



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promotional post for the feeder grade of Para. In the year 2018, seniority panel was prepared and one Meenakshi Sundaram figured at Serial No.1. The petitioners figured at Serial Nos.38, 39 & 40. Thiru.Meenakshi Sundaram was given promotion as Junior Clerk on 07.10.2020 after the new Rules came into force. The petitioners cannot therefore be treated differently.

3. The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petitions and called upon this Court to grant promotion to the petitioners as Junior Assistants on par with that of Thiru.Meenakshi Sundaram. He placed reliance on an un-reported order dated 05.07.2013 made in W.A.No.415 of 2011 (A.Ravi Vs. The Secretary to Government).

4. The respondents have filed counter affidavit. The learned Additional Government Pleader appearing for the department and the learned counsel appearing for the temple submitted that it is not possible to grant relief to the petitioner herein on account of the introduction of the new Rules. They pressed for dismissal of these writ petitions.

5. I carefully considered the rival contentions and went through the materials on record.



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6. There is no dispute that there were vacancies in the post of Junior Assistants before the introduction of new Rules. The Hon'ble Division Bench vide order dated 05.07.2013 had held that the vacancies which had arisen before the introduction of new Rules will have to be filled up with reference to the then existing rules. As per earlier Rules, the petitioners were definitely qualified to be promoted as Junior Assistants.

7. But in the recent decision of the Hon'ble Apex Court reported in **(2020) 18 SCC 1 (D.Raghu Vs. R.Basaveswarudu)**, it has been held that the employer is not obliged to fill up all the vacancies which might arise and secondly, when action is taken up for filling up the vacancies, statutory rules prevailing then alone will have to be applied.

8. I have to necessarily follow the decision reported in **(2020) 18 SCC 1 (D.Raghu Vs. R.Basaveswarudu)**. Of-course, Thiru.Meenakshi Sundaram had been promoted only subsequent to the introduction of the new Rules. That cannot confer any right to the petitioners. This is again for more than one reason that Thiru.Meenakshi Sundaram was figuring at Serial No.1 in the seniority panel, whereas the petitioners were figuring far below. The petitioners were admittedly junior. Secondly, even if as contended by the



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learned counsel appearing for the petitioner, there were six vacancies for the post of junior assistants in the year 2018, still, the employer was not obliged to fill up all the vacancies. Of-course, the employer has to prepare an estimate of vacancies every year and also prepare the panel. But then, the employer is not under mandate to fill up the same. Therefore, the employer cannot be faulted for having given promotion only to Thiru.Meenakshi Sundaram alone.

9. Looked at from any angle, the petitioners have not made out a case for granting promotion to the post of Junior Assistants. The writ petitions are therefore dismissed. However, the fact remains that they are languishing in the post of Para for years together.

10. The Hon'ble Supreme Court on more than one occasion held that during one's career, one must have an opportunity to be considered for atleast two promotions. I therefore expect the employer to ensure that the petitioners are given promotion atleast to Category-XI Posts within a period of two months from the date of receipt of a copy of this order.



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G.R.SWAMINATHAN, J.

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11. These Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

15.11.2022

Index : Yes / No

Internet : Yes/ No

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