



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.17825 of 2014

and

M.P (MD) Nos.1 to 3 of 2014

Saseendra Kumaradhas

... Petitioner

Vs.

1.The State of Tamil Nadu
Represented by it's Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai.

2.The Director of Medical Education,
Kilpauk,
Chennai-10.

3.V.Palanisamy

4.T.Muthuvenkada Balasubramanian

5.S.Arunkumar

6.A.K.Jeganathan

7.P.Venkatajalam

8.P.V.Radha

9.M.Mala Shanmuga Priya

... Respondents

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 the records relating to the impugned panel issued by the second respondent in his proceedings in Ref.No.19640/E5/3/2009, dated, 26.02.2011 and the consequential order issued by the second respondent in his proceedings in Ref.No.19640/E5/3/2009, dated, 01.10.2014 (served to the petitioner on 16.10.2014) and quash the same as illegal and consequentially to direct the respondents 1 and 2 to promote the petitioner as



Librarian Grade-I by including his name in the panel of the year 2008-09 with all consequential attendant monetary benefits within the period that may be stipulate by this Court.

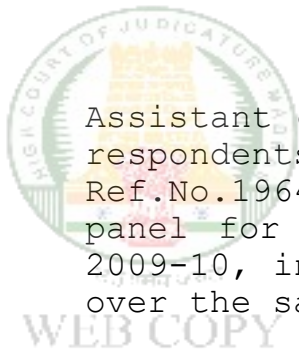
For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates
For Respondents : Mr.P.Thambidurai
Government Advocate(Civil Side)
for R1 and R2
No appearance
for R3 to R9

ORDER

This writ petition has been filed to quash the impugned order, dated, 26.02.2011 and the consequential order, dated, 01.10.2014 and to direct the respondents 1 and 2 to promote the petitioner as Librarian Grade-I by including his name in the panel of the year 2008-09 with all consequential attendant monetary benefits.

2. The brief facts of the case are that the petitioner joined in the Tamil Nadu Medical Education Service as a Typist through Tamil Nadu Public Service Commission on 08.06.1992. Thereafter, he was promoted as Assistant, which is coming under the Ministerial Service on 04.06.1999. Further, he was promoted as Statistician, which is coming under the Tamil Nadu Medical Subordinate Service on 09.06.2005. The scale of pay for the post of Statistician is 5300-150-8300. Subsequently, on the request of the petitioner, the petitioner was posted as Assistant 09.06.2010.

3. The contention of the petitioner is that the second respondent vide proceedings, dated, 23.03.2009 called upon the panel for the post of Librarian Grade-I for the year 2008-2009 and 2009-2010 and further requested the Heads of Medical Institutions to obtain the applications from the qualified and eligible candidates as on 15.03.2008 and 15.03.2009. The petitioner submits that the qualification for the post of Librarian Grade-I is any degree of any University in Tamil Nadu with a degree in Library Science. The method of appointment to the post of Librarian Grade-I is by way of promotion from any category or class in the Medical Subordinate Service or recruitment by transfer from any other service or direct recruitment. The feeder category for the promotion to the post of Librarian Grade-I are Statistician, Medical Record Technician, Radiographer, Lab Technician, Pharmacist, Dark Room Assistants etc., which are governed by the Tamil Nadu Medical Subordinate Service. The petitioner is having the educational qualification of M.A., M.Phil., Economics and Library Science. As on the crucial dates, the petitioner was working as a Statistician in Medical Subordinate Service and he was fully eligible to the post of Librarian Grade-I. The petitioner has submitted his application, dated, 15.04.2009. Since there was a delay in considering the promotion, in the



Assistant on 09.06.2010. After the applications were processed, the respondents have issued the impugned order proceedings in Ref.No.19640/E5/3/2009, dated, 26.02.2011 published the impugned panel for the post of Librarian Grade-I for the year 2008-09 and 2009-10, in which, the petitioner's name was not included. Aggrieved over the same, this present writ petition has been filed.

4. The respondents 1 and 2 have filed a counter stating that 4 vacancies pertaining to the post of Librarian Grade-I for the panel year 2008-2009 has been prepared with the eligible candidates, holding the post in Tamil Nadu Medical Subordinate Services. Likewise, for the year 2009-10, five vacancies pertaining to the post of Librarian Grade-I has been prepared with the eligible candidates from Tamil Nadu Ministerial Service and Tamil Nadu Medical Subordinate Service. When the panel was prepared in the year 2011, the petitioner has submitted his representation, dated, 02.03.2011 and 21.04.2011 with the prayer to appoint him as Librarian Grade-I by taking into consideration that he had worked as Statistician on the crucial date. Though he has worked as Statistician in the crucial date, he was holding the post of Assistant in Tamil Nadu Ministerial Service as on date of consideration. Hence, his name was considered under Ministerial Service. Since he has not reached his turn in the ratio of 1:1 for inclusion of his name, the petitioner was not included in the panel. The procedure followed by the respondents is that the candidates working under Tamil Nadu Ministerial Service and candidates working in Tamil Nadu Medical Subordinate Service will be considered in the ratio of 1:1. If the petitioner had not reverted as Assistant and continued in the Statistician post, his seniority would have come up. However, the petitioner's candidature cannot be considered, since the petitioner preferred to be Assistant on his own interest, he is not eligible for the same. Hence prayed to dismiss the writ petition.

5. Heard Mr.H.Mohammed Imran for M/s.Ajmal Associates, the Learned Counsel for the petitioner and Mr. P. Thambidurai Government Advocate (Civil Side), the learned Counsel appearing for respondents 1 and 2 and perused the records.

6. It is seen from the records that the petitioner has committed a blunder mistake by shifting from Statistician to Assistant post. The Statistician post is coming under Tamil Nadu Medical Subordinate Service and the Assistant post is coming under Tamil Nadu Ministerial Service. The respondents are following the ratio of 1:1 from the said two services. When the panel was drawn in the year 2011, the petitioner was holding the post of Assistant, which is coming as Ministerial service. The petitioner was not considered under Medical Subordinate Service by considering the post of Statistician. Because of the over curiosity, the petitioner lost his opportunity. Therefore, the petitioner is not entitled to any monetary benefits. It is submitted by the



respondents that the petitioner was already granted promotion in the year 2015 and subsequently he was transferred to some other place. The said submission is recorded.

7. It is seen from the records that the respondents are following the ratio 1:1. When the petitioner was holding the Statistician post, his seniority has not come up. Then the petitioner shifted to Assistant post, but when the Assistant post is taken up for consideration, the petitioner's seniority has not come up, but during that period had the petitioner retained in the Statistician post, he would have got the promotion. Hence the claim of the petitioner is that he should have been considered, as if he is in the Statistician post even though he was holding the post of Assistant post and grant promotion. The official respondents vehemently opposed the claim of the petitioner since the department is following a method of 1:1 ratio and if that is interfered with the same would affect the method and there will be demand from the eligible candidates. The learned counsel for the petitioner submitted that the petitioner may be granted promotion notionally for the said period so that the petitioner would be eligible for next promotion and also be eligible for more pensionary benefits since the petitioner is on the verge of attaining superannuation. It is seen from the records that the petitioner is 51 years at the time of filing of the writ petition and as on date, he is on the verge of retirement. Therefore the respondents are directed to grant promotion to the petitioner from the panel of 2008-09 notionally for the year 2011 and this is granted only for the purpose of pensionary benefits alone. It is made clear that the petitioner is not entitled to any monetary benefits for the said period.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Secretary to Government,
The State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat,
Chennai.

2.The Director of Medical Education,
Kilpauk,
Chennai-10.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-18464[F] dated
13/04/2022)

+1 CC to M/s.SPL.GP. (SR-18852[F] dated 13/04/2022)

**W.P. (MD) .No.17825 of 2014
12.04.2022**

RK(13/05/2022) 5P 5C