



W.P.(MD)No.21218 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.21218 of 2016

and

W.M.P.(MD) No.15167 of 2016

S.Manikandan

... Petitioner

Vs.

1.The Chief Secretary to Government,
Personnel and Administrative Reforms (B)
Department,
Chennai - 9.

2.The Secretary to Government,
Finance (T & AII) Department,
Chennai-9.

3.The Director of Treasuries and Accounts,
No.1, Jeenis Road,
Panagal Buildings,
Saidapet,
Chennai-15.

4.The Pay and Accounts Officer,
Pay and Accounts Office,
Madurai.

... Respondents



W.P.(MD)No.21218 of 2016

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of ***Certiorarified Mandamus*** to call for the records relating to the proceedings of the impugned order in RC No. 12303/2016/NI, dated 07.04.2016 on the file the third respondent and quash the same and further directing the respondents to promote the Petitioner notionally as Superintendent with effect from 15.03.2002 on completion of 5 years service as Stenographer Grade-II as per G.O.Ms.No.121, Personnel and Administrative Reform (B) Department dated 18.05.2007.

For Petitioner : Mr.R.Maheswaran

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader

ORDER

This Writ petition has been filed for issuance of ***Certiorarified Mandamus***, to quash the impugned proceedings in RC No.12303/2016/NI, dated 07.04.2016, on the file the 3rd respondent and also sought for a further direction to the respondents to promote the Petitioner notionally, as Superintendent, with effect from 15.03.2002 on



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WEB COPY

completion of 5 years service as Stenographer Grade-II, as per G.O.Ms.No.121, Personnel and Administrative Reform (B) Department dated 18.05.2007.

2. The brief facts as stated in the affidavit that the petitioner was appointed through the Tamil Nadu Public Service Commission as Typist in the year 1983. The Government through its letter in Govt.Lr.No. 99059/P&AR (Per.B) Dept.92-2, dated 28.01.1993 banned the promotion of Stenographers as Assistant with effect from 01.08.1992. Because of this banned, the petitioner could not get promotion.

3. The contention of the petitioner is that the petitioner's juniors in the cadre of Typist and Junior Assistant got promotion as Superintendent in the year 2004. But, the petitioner had to await to get promotion for the period from 1992 to 2009, hence the petitioner has filed a writ petition in W.P.No.2636 of 2006 before this Court, requested to promote the petitioner as Superintendent and the said Writ petition



W.P.(MD)No.21218 of 2016

WEB COPY

was dismissed, wherein it is stated that the petitioner has relinquished his right to promote as Assistant in Dindigul District.

4. In the meanwhile, the writ petition filed by the Stenographers Association, this Court has provided the promotional avenue for Stenographers, since originally, the stenographers could not get any promotion. Thereafter, the Government has passed two Government orders, in ***G.O.Ms.No.121, Personnel and Administrative Reforms (B) Department dated 18.05.2007*** and ***G.O.Ms.No.47, Personnel and Administrative Reforms (B) Department, dated 12.03.2008***. As per G.O.Ms.No.121, Personnel and Administrative Reforms (B) Department dated 18.05.2007, the persons who had worked as Stenographers Grade-I and Grade-II between the period from 01.08.1992 to 21.02.2001, shall be considered for promotion to the post of Superintendent. The required period of service is only five years. Since the petitioner has completed five years, the petitioner is claiming promotion.



W.P.(MD)No.21218 of 2016

WEB COPY

5. The further contention of the petitioner is that, instead of promoting the petitioner as Superintendent with effect from 2001, the petitioner's name was included in the panel for promotion to the post of Superintendent for the year 2008-2009, thereby the petitioner was denied promotion for about 17 years. Based on the order of this Court in W.P.No.6550 of 2006, the petitioner's name was considered for promotion. Therefore, the petitioner prays to quash the impugned order which denies promotion and direct the respondents to promote the petitioner, notionally, as Superintendent, with effect from 15.03.2002, on completion of five years.

5. The respondents have filed counter and stated that the petitioner's actual date of regularization in the post of Steno-Typist Grade-III and II are 24.05.1998 and 16.10.1996 respectively. The Government has issued guidelines through its **G.O.No.47/P& AR (B) Department, dated 12.03.2008**. In view of the guidelines issued in the said G.O., the Steno-Typist Grade I and Grade II who worked between



W.P.(MD)No.21218 of 2016

WEB COPY

01.08.1992 to 21.02.2001 in the Tamil Nadu Ministerial Services alone can be considered for promotion. In Paragraph I, it has been stated that the eligible Stenographers who have put in five years of service, in respect of category and on exercise of their option shall be considered for inclusion in the panel. The panel for promotion to the post of Sub-Treasury Officer/Superintendent for the year 2008-2009 was approved, vide order, dated 16.11.2009 including the names of 211 eligible candidates including the name of the petitioner in serial No.20. Therefore, to include the petitioner's name in the panel for the year i.e., 2002-2003 does not arise. It is further submitted that, in respect of one Mrs. M.V.Sree Mangalaragini, who was promoted as Superintendent, vide letter, dated 22.11.2016, stated that the said promotion was erroneous. On the basis of the aforesaid order, repeated representations were submitted to the Government for ratifying the erroneous appointment of Mr.S.Manikandan, Steno-Typist Grade II/the petitioner herein, and others Mrs.Surya Kumari, Steno-Typist Grade II, Mrs.S.Rathnabai, Steno-Typist Grade II, Mrs.N.Shanthi, Steno-Typist



W.P.(MD)No.21218 of 2016

WEB COPY

Grade II and Mrs.M.V.Sri Mangalaragini, who were all promoted as Superintendents. Finally, the Government, vide order, dated 30.12.2017 in G.O.(D)No.328, Finance (T & A-II), stated that the Tamil Nadu Ministerial Service Steno-Typist Grade I and II alone can be considered for promotion as Superintendent. As per Rule 3(a) of the *Special Rules of Tamil Nadu Treasuries and Accounts Subordinate Service*, the feeder category for the promotion as Superintendent is Accountant and not Steno-Typist. The Government after careful examination in order to regularize the erroneous promotion made in violation of Rules 3(a) of the Special Rule of the above individual. The Government ratified the above action as a special case in having made this erroneous promotion with a condition that this instant case should not be quoted as precedent in future. Therefore, concession cannot be granted to the petitioner. Hence, the request of the petitioner to include Superintendent in the previous year i.e., 2002-2003, panel notionally as Superintendent with effect from 15.03.2002 on completion of 5 years of service as Steno-Typist Grade II cannot be considered. Therefore, prayed to reject the petition.



W.P.(MD)No.21218 of 2016

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6. Heard Mr.R.Maheswaran, learned counsel appearing for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader, appearing for the Respondents. Perused the material documents available on record.

7. On perusal of the Rule 3(a)(1) of the *Special Rules of Tamil Nadu Treasuries and Accounts Subordinate Service*, it is seen that the Rule provides for promotion to the post of Superintendent from the feeder category of Accountant. The Rule never prescribes to grant promotion from the feeder category of Steno-Typists. The respondents have fairly admitted that some mistakes were committed by promoting the aforesaid five persons and the Government had categorically held that the said promotions are “erroneous promotion” and had ratified as a special case with a condition that that case should not be quoted as precedent in future. Therefore, this Court is of the considered opinion that the petitioner cannot quote an illegal promotion and claim to confer such illegal promotion because any illegality cannot be perpetuated.



W.P.(MD)No.21218 of 2016

WEB COPY

8. In view of the foregoing reasons, this Court is of the considered opinion that the Special Service Rule does not provide any promotion to the petitioner at all. The other reasons were granted promotion mistakenly and the same was subsequently ratified as one time measure with strict condition that the same cannot be cited as “Precedent” and the petitioner's claim is illegal. The petitioner claim of promotion can never be granted. If the petitioner’s claim is entertained the same is against the Rules.

9. Accordingly, this Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
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WEB COPY



W.P.(MD)No.21218 of 2016

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W.P.(MD)No.21218 of 2016

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.21218 of 2016**

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