



WEB COPY



W.P.No.255 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.255 of 2022 and
W.M.P.No.282 of 2022

M.P.Prabu Arul Wales,
Assistant,
Office of the District Manager,
TAHDCO, Thiruvallur District,
Tiruvallur- 602001.

... Petitioners

Versus

1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort St.George,
Chennai-9.

2.The Managing Director,
TAHDCO, Head Office,
Chennai- 18.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issuance of a Certiorarified Mandamus calling for the records of the 1st respondent's proceedings vide letter. No.9184/Adhi Dravidar -1/2020-3 Dated 23.01.2021 and the 2nd respondent's letter No.A.2/6119/2019 dated 29.10.2021 quash the same as legally not valid and direct the first and second respondents to revise my service as Junior Assistant with effect from my date of initial appointment (22.07.2007) and further direct them to provide subsequent promotions by taking into account of my service rendered in the cadre of record clerk with effect from my service 22.01.2007 and in the cadre of Junior Assistant with effect from 19.07.2006 along with back wages and other monetary benefits within a time frame as may be stipulated by this Court.



W.P.No.255 of 2022

For Petitioner : Mr.R.Govindasamy
For R1 : Mr.P.Baladhandayutham,
Special Government Pleader
For R2 : Mr.C.A.Ashok Kumar

ORDER

This Writ Petition has been filed to call for the records of the 1st respondent's proceedings in letter No.9184/ADW1/2020-3, dated 23.01.2021 and the 2nd respondent's proceedings in letter No.A2/6119/2019, dated 29.10.2021 quash the same as legally not valid and direct the respondents to revise the petitioner's service as Junior Assistant with effect from his date of initial appointment (22.07.2007) and further, direct them to provide subsequent promotions by taking into account of his service rendered in the cadre of Record Clerk with effect from his service 22.01.2007 and in the cadre of Junior Assistant with effect from 19.07.2006 along with back wages and other monetary benefits within a time frame as may be stipulated by this Court.

2.The case of the Writ Petitioner is that his father was working as Assistant in the office of the 2nd respondent and died on 11.09.2005. On compassionate ground, the petitioner was appointed as Record Clerk on 10.01.2007, vide proceedings No.R2/1869/2006. Though he was eligible



W.P.No.255 of 2022

for the post of Junior Assistant, he was given appointment for the post of Record Clerk at the relevant point of time and thereafter, he has been promoted to the post of Junior Assistant on 27.08.2015. Subsequently, on 05.02.2021, the petitioner got promotion to the post of Assistant and continuously working in the 2nd respondent's office. The contention of the petitioner that on the date of joining on 22.01.2007, the post of Junior Assistant was vacant in the office of the 2nd respondent. Whereas the 2nd respondent has appointed the petitioner to the post of Record Clerk. Therefore, the petitioner sent a representation to the respondents, which was rejected to regularize him as Junior Assistant.

3.A counter has been filed by the 2nd respondent. It is the contention of the 2nd respondent that the petitioner does not have requisite qualification for appointment to the post of Junior Assistant as per the Revised Service Rules of TAHDCO approved in the 138th Board Meeting held on 24.09.2001, whereby the qualification prescribed for appointment to the post of Junior Assistant in TAHDCO is “Must possess a Bachelor Degree”. Based on the Chief Secretary to Government, Labour and Employment Department letter Ms.No.126/Q-1/2006, dated 16.09.2006, it



W.P.No.255 of 2022

was decided to fill up the following vacancies on compassionate ground in the 169th Board Meeting held on 01.12.2006. Accordingly, the following members were appointed as Junior Assistants in the year 2006:

<i>S.No.</i>	<i>Name</i>	<i>Educational Qualification</i>
1	P.Balasubramanian	B.A (Economics)
2	L.Loganatha	B.A (History)
3	K.Venkateshwari	B.A (Economics)

The following members were appointed as Record Clerk on compassionate ground:

<i>S.No.</i>	<i>Name</i>	<i>Educational Qualification</i>
1	M.Kalaivani	12 th passed
2	G.Narayanan	10 th passed
3	S.Prasanna	10 th passed
4	K.Balaji	12 th passed

In 2007, the following members were appointed as Record Clerks:

<i>S.No.</i>	<i>Name</i>	<i>Educational Qualification</i>
5	M.P.Prabhu Arul Wales	12 th failed
6	N.Rajinikanth	10 th passed
7	M.Ezhilvendan	10 th passed
8	S.Agalya	12 th passed
9	P.Kuppuraj	10 th passed
10	V.Balaji	12 th passed



W.P.No.255 of 2022

<i>S.No.</i>	<i>Name</i>	<i>Educational Qualification</i>
11	P.Saravanakumar	Diploma in Civil Engineering
12	A.Senthilkumar	10 th passed
13	M.Suresh Kumar	10 th passed

4. Therefore, the petitioner has not entitled for change of employment on retrospective regularization and he cannot question the same.

5. Heard Mr.R.Govindasamy, learned counsel for the petitioner, Mr.P.Baladhandayutham, learned Special Government Pleader for the 1st respondent and Mr.C.A.Ashok Kumar, learned counsel for the 2nd respondent and perused the materials.

6. It is seen that the very compassionate appointment is a concession granted by the Government to alleviate the family who are distressed in view of the sudden demise of the earning member. When the petitioner was already appointed as Record Clerk in the year 2007 on compassionate ground, now merely on the basis of the representation he cannot seek regularization retrospectively in the post meant for Junior Assistant. Further, in the Revised Service Rules of TAHDCO, the



W.P.No.255 of 2022

qualification prescribed to the post of Junior Assistant in TAHDCO is “Must Possess a Bachelor Degree”, which has been approved in the 138th Board Meeting held on 24.09.2001. In any event on the very compassionate ground, the petitioner has been appointed as Record Clerk in the year 2007 itself. Hence, he is not entitled to the relief claimed by him.

7.It is also seen that the petitioner has given representation after lapse of 14 years on 28.02.2020 and no explanation has been given for such delay.

8.In such view of the matter, there is an unexplained delay and latches also disabling the petitioner to seek any relief before this Court. Hence, I do not find any merit consideration in this Writ Petition to interfere with the impugned orders of the respondents. Accordingly, this Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

17.07.2023

vv2

Index : Yes/No



W.P.No.255 of 2022

Internet: Yes/No

Neutral Citation: Yes/No

Speaking Order/Non-Speaking Order

To

1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort St.George,
Chennai-9.

2.The Managing Director,
TAHDCO, Head Office,
Chennai- 18.



WEB COPY



W.P.No.255 of 2022

N.SATHISH KUMAR, J.
vv2

W.P.No.255 of 2022

17.07.2023