



W.P.No.18335 of 2016

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.18335 of 2016

and

W.M.P.Nos.18951 of 2020 and 4682 of 2022

1.G.Senthil

2.G.Kartik

3.K.Kengeswaran

4.K.Mythili

5.Y.Queensa

6.T.Vimalkumar

... Petitioners

Vs.

The Government of Tamil Nadu,
Represented by its Secretary,
Personnel and Administrative
Reforms Department,
Chennai – 9.

... Respondent



W.P.No.18335 of 2016

WEB COPY

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent relating to the issue of impugned orders, viz., G.O.(4D)No.26 and G.O.(4D)No.27 even dated 22.07.2015 and quash the said G.O.(4D)No.26 dated 22.07.2015 in so far as not including the names of the petitioners therein above their juniors and the G.O.(4D)No.27 dated 22.07.2015 in so far as not regularizing the petitioners' services with effect from their initial date of joining as ASO pursuant to G.O.(4D)No.41 dated 02.11.2012 issued by the respondent and consequently to direct the respondent to prepare and approve afresh the said panel of Assistants fit for promotion to the category of ASO in accordance with rules by placing the petitioners in the said panel above or on par with their juniors and to regularize the services of the petitioners in the category of ASO with effect from the date of their joining as ASO on temporary promotion pursuant to G.O.(4D)No.41 dated 02.11.2012 issued by the respondent.

For Petitioners : Mr.R.Amardeep
for M/s.Tamizh Law Firm

For Respondent : Mr.S.Silambannan
Additional Advocate General
Assisted by
Mr.M.Babu Barveez
Government Advocate



W.P.No.18335 of 2016

WEB COPY

ORDER

The writ petitioners have filed the present writ petition seeking issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in relation to the impugned orders in G.O.(4D)No.26 and G.O.(4D)No.27 dated 22.07.2015 and quash the same insofar as the petitioners' name not being included therein above with their juniors and to regularize the petitioners services with effect from their initial date of joining on 02.11.2012 and to consequently direct the respondent to prepare and approve a fresh panel of assistants, fit for promotion to the category of Assistant Section Officers, in accordance with the rules and place the petitioners above or on par with their juniors to regularize the services of the petitioners in the categories of Assistant Section Officers, with effect from their date of joining on temporary promotion pursuant to G.O.(4D)No.41, Personnel and Administrative Reforms (U) Department dated 02.11.2012.



W.P.No.18335 of 2016

WEB COPY

2. Even though all the petitioners have come together, factually their grievances are not identical. Insofar as the first and third petitioners, their specific grievance is that they missed the crucial date of 01.08.2012 by few days alone and the respondent ought to have relaxed the rule for the first and third petitioners, since there was an administrative delay in relieving the first and third petitioners from their former post of Village Administrative Officer (VAO), despite the petitioners seeking to be relieved well before the crucial date.

3. According to the first and third petitioners, the delay is not on account of their action or inaction and it was purely administrative for which, the petitioners cannot be made to suffer.

4. It is also contended that in one case, the respondent has chosen to relax the rule on the ground that the concerned person had not completed his crash course (Foundation Training Course).



W.P.No.18335 of 2016

WEB COPY

5. The respondent has filed an additional counter affidavit stating that the general rules for Tamil Nadu State and Subordinate Services have been followed and there is no irregularity whatsoever.

6. The petitioners cannot seek for relaxation of the crucial date namely 01.08.2012 and admittedly, the petitioners were not qualified on the forenoon of the crucial date for inclusion of their names in the regular panel to the post of Assistant Section Officer (ASO) for the year 2012-2013. However, rightly their names have been included in the panel of Assistant Section Officer (ASO) for the year 2013-2014. Therefore, the respondent prays for dismissal of the writ petition.

7. In the additional affidavit, it is stated that non-completion of probation/Foundation Training Course on the crucial date was purely an administrative delay by the Tamil Nadu Ministerial Services and therefore, the petitioners are being prejudiced on account of such delay, for no fault of theirs.



W.P.No.18335 of 2016

WEB COPY

8. It is also specifically pointed out that in the case of juniors to the petitioners, the rules were relaxed permitting them to undergo crash course (Foundation Training Course) at Anna University (Management) extending the time by 10 days and they were included in the regular panel of 2012-2013.

9. However, the respondent has filed an additional Counter Affidavit to meet the averments and allegations in the said Additional Affidavit. Insofar as the administrative delay, it is the specific case of the respondent that the fact that the petitioners chose to write the Tamil Nadu Public Service Commission (TNPSC) examination and come through a totally different channel and they cannot attribute any allegation with regard to the delay in relieving them from the earlier posts of VAOs and that in such event, which is alleged to be administrative delay will not in any way have a bearing on the petitioners fulfilling the requirements in the present employment, namely meeting the crucial cut off date on 01.08.2012. Further, rules being relaxed in respect of juniors to the petitioners, the respondent has categorically stated that insofar as probation, there is no question of any relaxation and



W.P.No.18335 of 2016

only in respect of qualification, a deviation was made in certain cases, which will not come to the aid of the petitioners as the relaxation of the rule in respect of the qualification cannot be equated to relaxation of the mandatory probation period.

10. Heard the learned counsel for the petitioners and the learned Additional Advocate General Mr.S.Silambannan.

11. The learned counsel for the petitioners would rely on the Judgment of the Hon'ble Supreme Court in **Vasant Rao Roman Vs Union of India**, reported in 1993 Supp (2) SCC 324, wherein, the Hon'ble Supreme Court has held that where, there is an administrative delay, the same cannot be put against the petitioner. However, that was a case where, the appellant was placed under suspension and he was made to suffer on account of administrative reasons. Under such circumstances, the Hon'ble Supreme Court had found that the appellant therein cannot be faulted for not completing the requisite number prescribed, which was put against him.

12. In **Arun Kumar Chatterjee Vs South Eastern Railway and**



W.P.No.18335 of 2016

others, reported in 1985 AIR 482, relied on by the learned counsel for the petitioners, the facts were entirely different, where, the Hon'ble Supreme Court found that gross injustice was done to the appellant and there was a mistake committed by the authorities and they had to re-fix the seniority of the appellant.

13. The facts of the said case is not in any way help the petitioners case, which is totally different to the facts here. Insofar as the other petitioners, except the first and third petitioners, it is submitted by the learned Additional Advocate General that the other petitioners did not even qualify since they went on leave, especially during the probation period and hence, their cases cannot be considered even on the same pedestal as that of the first and third petitioners.

14. In so far as the first and third petitioners, as rightly contended by the learned Additional Advocate General for the respondent, that the fact the first and third petitioners have chosen to relieve themselves from their former post of VAOs on the ground that they have cleared TNPSC Examination in order to avail of better employment, it cannot be



W.P.No.18335 of 2016

attributed as a delay on account of the respondent, requiring the respondent to relax the rule. The cut off/crucial date is 01.08.2012 and the fact that probation is mandatory also, it cannot be lightly brushed aside.

15. Admittedly, the petitioners' only contention is that they missed the bus only by few days that too on account of the administrative delay in relieving letter being issued from their earlier employment. The said claim of the petitioners cannot be accepted.

16. This Court not find any merits in the writ petition. For all the foregoing reasons, this Writ Petition is dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

27.06.2023

Index : Yes / No
Internet : Yes / No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes / No

arb



WEB COPY



W.P.No.18335 of 2016

P.B.BALAJI, J.

arb

To

The Secretary,
Government of Tamil Nadu,
Personnel and Administrative Reforms Department,
Chennai – 9.

W.P.No.18335 of 2016

and

W.M.P.Nos.18951 of 2020 and 4682 of 2022

27.06.2023