



W.P.No.4530 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.12.2023

Pronounced on : 19.12.2023

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.4530 of 2012

A.Allirani

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the Principal Secretary,
Home Department,
Fort St. George,
Chennai – 600 009.

2. The Additional Director General of Police
-cum- Inspector General of Prison,
O/o. Inspector General of Prison,
Chennai – 600 008.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the petitioner for promotion to the post of Additional Superintendent of Prison for Special Prison for women in Trichy.



W.P.No.4530 of 2012

For Petitioner : Mr. K.Bhasker

For Respondents : Mr. G.Ameedius,
Government Advocate

ORDER

The petitioner herein was initially appointed as Matron on 06.05.1994 in Tamil Nadu Jail Services. In terms of the Tamil Nadu Jail Service Manual, the post of Matron was in the feeder category to the post of Deputy Superintendent of Prison, Special Prison for Women. Smt. Vijayalakshmi Pandit, who was senior to the petitioner in the cadre of Matron was promoted as Deputy Superintendent of Prison, Special Prison for Women through G.O (Ms) No. 1226, Home (Prison.I) Department dated 10.11.2000. At that stage, the petitioner was awaiting for consideration of her case for promotion to the post of Deputy Superintendent of Prison, Special Prison for Women. The post of Matron was upgraded as Deputy Jailer through G.O (Ms) No.1060, Home (Prison.I) Department dated 31.08.2004. Consequently, the petitioner was re-appointed as Deputy Jailer with effect from 29.12.2003, and the post of Deputy Superintendent of Prison was upgraded as Superintendent of Prison in terms of G.O (Ms) No.1068 Home



(Prison.I) Department dated 31.08.2004. Smt. Vijayalakshmi Pandit, who was holding the post of Deputy Superintendent, Special Prison for Women, Trichy was absorbed as Superintendent of Prison in the upgraded post in the year 2005. However, consequent upon the upgradation of the post of Matron and the Deputy Superintendent of Prison to that of the Deputy Jailer and Superintendent respectively, the consequential amendments to the Tamil Nadu Jail Service Rules were not made.

2. In view of the same, the petitioner, who was working as Deputy Jailer, on upgradation was left with no avenue for promotion. Under those circumstances, the petitioner approached the Hon'ble Madurai Bench of this Court by filing Writ Petition in W.P (MD) No. 1230 of 2009 and the said Writ Petition was disposed of by an order dated 16.02.2009 to consider the grievance of the petitioner raised under the representation dated 07.02.2009. On considering the said representation of the petitioner, the respondents, having taken note of the inadequacy in the Rule position, considered the case of the petitioner for appointment as Jailer at Special Prison for Women, Puzhal, on ad-hoc basis through G.O (Ms) No. 954, Home (Prison.I) Department dated 09.11.2009, pending necessary amendments to the Service



W.P.No.4530 of 2012

Rules. Thereafter, the nomenclature of the post of Deputy Superintendent of in Women's Prison was re-designated as Additional Superintendent of Prison and accordingly, the Special Rules for Tamil Nadu Jail Service, governing the Women Prison were amended vide G.O (Ms) No. 224, Home (Prison.I) Department dated 27.03.2008 and the said Rules were given retrospective effect with effect from 29.09.2003. Accordingly, the promotion avenues for the post of Deputy Jailer was also provided to the post of Jailer, Special Prison for Women and from the post of Jailer to the post of Additional Superintendent of Prison and further promotion to the post of Superintendent of Prison, Special Prison for Women. However, the petitioner, who was promoted on ad-hoc basis as Jailer through G.O (Ms) No. 954 Home (Prison.I) Department dated 09.11.2009 was continued as Jailer on ad-hoc basis, without considering her case for regular promotion as per her entitlement in terms of the amendments made to the Rules through G.O (Ms) No. 224, Home (Prison-I) Department dated 27.03.2018. Thus, the petitioner was forced to continue as Jailer on ad-hoc basis, since the year 2003 till date.

2. This Writ Petition was filed in the year 2012 seeking a Writ of Mandamus to direct the respondents to consider the case of petitioner for



W.P.No.4530 of 2012

promotion to the post of Additional Superintendent of Prison for Special Prison for women in Trichy.

3. As already noted above, in terms of the amendments made to the Rules in the year 2018, the petitioner, who is working as Jailer which is the feeder category to the post of Additional Superintendent of Prison and once the case of the petitioner is considered for her regular promotion to the post of Jailer in terms of the amendments made to the Rules with retrospective effect, the petitioner would be entitled for further consideration of her case for promotion to the post of Additional Superintendent of Prison and then promotion to the post of Superintendent of Prison, subject to her eligibility.

4. But, inspite of the amendments made to the relevant Rules as early as in the year 2018, the respondents have not taken any steps for regularization of the services of the petitioner as Jailer and for further promotions to the higher posts. Thus, there is total inaction on the part of the respondents in giving effect to the Rules that were amended with retrospective effect and the very purpose of giving retrospective effect to such Rules is defeated by the sheer inaction on the part of the respondents. The very



purpose of giving retrospective effect to the amendments made in the year 2018 is with a view to rectify the anomaly that had occurred due to upgradation of certain posts, depriving the promotional avenues, that were existing as on the date of appointment of the petitioner as Matron in the Prison services. Therefore, this is a fit case, where appropriate directions can be issued to the respondents to take steps for considering the case of the petitioner for regularization of her services in the post of Jailer and for further consideration of her case for promotion to the post of Additional Superintendent of Prison and Superintendent of Prison etc.,

5. However, from the status report filed before this Court by the respondents, it is noticed that the petitioner was subjected to disciplinary proceedings after the year 2011 and certain punishments were also imposed. It is also brought to the notice of this Court that some of the disciplinary proceedings that were initiated against the petitioner are also pending for finalisation as on date.

6. Be that as it may, the said disciplinary proceedings are admittedly initiated after the year 2011, but the entitlement of the petitioner for



consideration of her case for regularization of services in the cadre of Jailer and consideration of her case for further promotions at the relevant point of time, subject to availability of vacancy etc., cannot be denied on the ground of subsequent initiation of disciplinary proceedings against the petitioner. Any action on the part of respondents in refusing to consider the case of the petitioner for regularization, promotion etc., basing upon the eligibility and qualification of the petitioner at the relevant point of time is bound to be declared as arbitrary and illegal. But for the upgradation of the posts of Matron and the post of Deputy Superintendent of prison at the relevant point of time, the case of the petitioner would have been considered in a routine process. But the petitioner was deprived of such consideration because of the amendments and upgradations that were made by the respondents. The petitioner cannot be found fault for such actions of the respondents. The legitimate expectation of the petitioner for further prospects in the service were adversely affected because of the actions of the respondents. Perhaps, it is only with a view to rectify such anomalies, the relevant Rules were amended with retrospective effect from the year 2003, as noted above. Under the circumstances, the petitioner cannot be deprived of the benefit of the retrospective amendments that were made to the relevant Rules and for



W.P.No.4530 of 2012

consideration of her case for promotion etc., subject to eligibility and availability of vacancy etc.,

7. In the circumstances, taking into consideration that overall circumstances as noted above, the Writ Petition is disposed of, directing the respondents to consider the case of the petitioner for regularization of her services in the post of Jailer with reference to her eligibility as on the relevant date of her ad-hoc promotion or from the date on which she became entitled for such promotion duly taking into consideration the amendments that were made to the Rules with retrospective effect with effect from 29.09.2003 and also to consider the case of the petitioner for promotion to the post of Additional Superintendent of Prison, Special Prison for Women and for further promotion to the post of Superintendent of Prison, Special Prison for Women subject to the eligibility of the petitioner at the relevant time and the availability of vacancy.

8. The entire exercise as directed above, shall be completed by the respondents as expeditiously as possible at any rate within a period of four months from the date of receipt of a copy of this order. There shall be no



W.P.No.4530 of 2012

order as to costs. Miscellaneous Petitions, if any, shall stand closed.

WEB COPY

19.12.2023

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



W.P.No.4530 of 2012

To

WEB COPY

1. The Principal Secretary to Government of Tamil Nadu,
Home Department,
Fort St. George, Chennai – 600 009.
2. The Additional Director General of Police
-cum- Inspector General of Prison,
O/o. Inspector General of Prison,
Chennai – 600 008.



WEB COPY



W.P.No.4530 of 2012

MUMMINENI SUDHEER KUMAR, J.

skr

W.P.No.4530 of 2012

19.12.2023