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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2023

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THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P.No.29607 of 2023

and

WMP.No.29237 of 2023

S.Ravichandran

... Petitioner

..Vs..

1.The State of Tamil Nadu

Rep.by its Principal Secretary to Government

School Education Department

Fort St.George, Chennai 600 009.

2.The Chief Educational Officer

Government Boys School Campus

Ariyalur.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the first respondent dated 24.7.2023 made in G.O.(2D).No.87 School Education (Pa.Ka.4(2)) Department and quash the same as illegal and unlawful consequently direct the first respondent to declare the petitioner's probation completed successful on 13.01.2017 with all service and monetary benefits.



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For Petitioner : Mr.J.Pooventherarajan
For Respondents : Mr.S.Silambanan,
Additional Advocate General
Asst.by:
Mr.M.Bindran
Additional Government Pleader

ORDER

The issue as to whether declaration of probation can be made from the date on which the Junior Assistant completes his department training at Bhavanisagar has already come up for consideration and various decisions were taken by this Court, wherein, it is held that when a Government employee is subjected to a training after a period of 5 years, the delay in sending him to training should not be against the employee and therefore, the order declaring his probation on the date of the completion of Bhavanisagar training was interfered with.

2.In the case of M.Narendiran .v. The State of Tamil Nadu and Others passed in W.P.No.28873 of 2017, dated 28.7.2023, I had followed the earlier orders passed in this context, in the following manner;

"2. Through the impugned Government Order in G.O.(1-D) No.408, Panchayat Development and Panchayat Raj (E-7) department dated 03.08.2015 passed by the first respondent herein, the petitioner's probation was declared with effect from 05.04.2014 instead of 31.05.2010, on the ground that the petitioner had belatedly completed the foundational training at the Civil Service Training



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Institute at Bhavanisagar, Tamil Nadu. Admittedly, the delay in deputing the petitioner for the foundational training was on the part of the respondents on the administrative side.

3. The issue as to whether, the respondents will be justified in declaring the probation from the date of completion of the training, which was belatedly held, came up for consideration before this Court in various cases and this Court had held that the respondents are not justified in declaring the probation on the date of completion of the training. In one such order passed in the case of T.Gunaseela Subramani and 2 others Vs. The Principal Secretary to Government, Commercial Taxes and Registration Department and others passed in W.P.(MD) No.15585 of 2018, dated 29.03.2021, this Court had held as follows:-

"2. The petitioners herein had undergone the foundational training at the Civil Service Training Institute at Bhavanisagar, Tamil Nadu, pursuant to which, their completion of probation was declared through G.O.(D) No.164 Commercial Taxes and Registration Department dated 30.04.2015. Subsequently, the first petitioner was promoted to the post of Assistant on 15.07.2015 and the second and third petitioners were promoted on 01.07.2015 and 13.11.2015 respectively.

3. The petitioners' declaration of probation came to be cancelled through the impugned government order in G.O.(D) No.83 Commercial Taxes and Registration Department dated 26.04.2018, predominantly on the ground that, the petitioners herein had not completed their foundational training within their two years of probation period, as required under Rule 32(a)(1) of the Tamil Nadu Ministerial Service Rules and that their probation requires to be declared from the day following their completion of the foundational training.



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3. Rule 32(A)(1) of the Tamil Nadu Ministerial Service Rules reads as follows:-

“32 (A) (1) Every person appointed to a category by direct recruitment shall be on probation for a total period of two years on duty within a continuous period of three years. The individual in the cadre of Junior Assistant is eligible for promotion to the post of Assistant on satisfying the following conditions:-

- 1. His probation declared successful.*
- 2. His service should be regularized in the cadre of Junior Assistant.*
- 3. He should complete the foundational training at Civil Service Training Institute at Bhavanisagar, Tamil Nadu.*
- 4. He should successfully complete the departmental examination conducted by the Tamil Nadu Public Service Commission.”*

4. As per the aforesaid Rules, among other conditions, the probationer is required to complete the foundational training at Civil Service Training Institute, at Bhavanisagar, within the probationary period. As per Rule 26(A)(2) of the Tamil Nadu Ministerial Service Rules, the date of passing of the foundational training or departmental tests, is significant for declaration of probation. The said Rules reads as follows:-

“26 (A) (2) in cases where the passing of an examination or test confers on a Government Servant the title to any right, benefit or concession, such title should be deemed to have accrued on the day following the last day of the examination or test which the passed. In cases where the examination or test can be passed in installments, the title to the right, benefit or concession will be deemed to have accrued on the day following the last day of the examination in the subject or subjects in which he had



passed.”

5. Admittedly, the mandatory foundational training at the Civil Service Training Institute at Bhavani Sagar was belatedly held and the petitioners were not deputed for the training, during their period of probation. Such a statement is ratified in the G.O.(D)No.164, Commercial Taxes and Administration Department dated 30.04.2015, as well as in the counter affidavit filed before this Court. The provisions of Rule 32 would apply to such probationers, who have been nominated to undergo their training during their period of probation, which is for a total period of two years on duty, within a continuous period of three years. When the petitioners were nominated for the training after more than four years, they cannot be expected to complete such training, as required under Rule 32(A) and therefore, the provision itself may not be applicable to these petitioners, particularly, when the lapse was on the part of the respondents.

6. Furthermore, there is no Rule to the effect that the training should not be completed in the second or subsequent attempts during the probation period. In other words, there is no bar for the probationers to undertake the tests in any number of attempts, within the probation period. This observation is made in the light of the counter averments of the respondents that these petitioners had completed the training in their second attempt only. Even otherwise, since the petitioners were deprived of an opportunity to participate in the training programme within their probation period, there may not be any justification on the part of the respondents to refer to the failure in completing the training at the first attempt.



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7. Since there are no Regulations governing the declaration of probation for belated deputation to training, owing to administrative delays, the reference to Rule 26(A)(2) that the petitioners' declaration of probation will commence on the day following the completion of training, is unjustifiable and illegal. Consequently, the impugned Government Order cancelling the declaration of probation of the petitioners cannot be sustained."

4. The aforesaid order is self explanatory. As such, the impugned order declaring the petitioner's probation with effect from 05.04.2014 cannot be sustained. Consequently, it requires to be held that the probation of the petitioner herein requires to be declared with effect from 31.05.2010, which is the date of completion of the 2 year period of probation.

3. In the instant case, the petitioner had joined duty as a junior assistant on 14.1.2015 and he was deputed to undergo Bhavanisagar training on 21.1.2020 only, which is after a period of five years. As such, the aforesaid decision is squarely applicable to the case of the petitioner. In this background, the impugned order dated 24.7.2023, declaring his probation from the date of completion of the training cannot be sustained. Accordingly, the impugned order dated 24.7.2023 on the file of the 1st respondent is quashed and the respondent shall pass orders declaring the petitioner's probation with effect from 17.2.2020 and consequentially extend the monetary benefits to the petitioner, within a period of eight weeks from the date of receipt of a copy of the order.



4.This writ petition is allowed in the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

06.12.2023

Index:Yes
Internet: Yes
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To

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School Education Department
State of Tamil Nadu
Fort St.George
Chennai 600 009.
- 2.The Chief Educational Officer
Government Boys School Campus
Ariyalur.



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M.S.RAMESH.J,

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