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WP.Nos.23954/2017 & 3922/2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.Nos.23954/2017 & 3922/2020

and

WMP.Nos.25229 to 25231/2017 & 3938 & 4653/2020

A.Pitchaigani

... Petitioner in
WP.No.23954/2017

R.Dhinakaran

... Petitioner in
WP.No.3922/2020

Versus

- 1.The Government of Tamil Nadu
rep.by Principal Secretary to Government
Industries [MIC2] Department
Fort St George, Chennai-9.
- 2.The Commissioner of Sugar
690, Anna Salai, Nanthanam
Chennai – 35.
- 3.The Managing Director,
Kallakurichi No.II Cooperative Sugar Mills
Limited, Kachirayapalayam, Chinnasalem
Villupuram District 606 207.



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4.R.Dhinakaran

5.T.Elangovan

... Respondents in
WP.No.23954/2017

****RR4&5 impleaded vide order dated 23.08.2023
in WMP.Nos.19452 & 19453/2018 in WP.No.23954/2017**

1.The Commissioner of Sugar
690, Anna Salai, Nandanam
Chennai – 35.

2.The Managing Director,
MRK Cooperative Sugar Mills Ltd.
Sethiathope, Cuddalore District.

... Respondents in
WP.No.3922/2020

Prayer in WP.No.23954/2017 :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 1st respondent in relation to the amendment II as introduced in G.O.Ms.No.93, Industries [MIC2] Department, dated 28.07.2017 and to quash the same insofar as it relates to prescription of 15 years experience as regular employee [non seasonal employee in Cooperative and Public Sector Sugar Mills] as an additional qualification, for promotion to the post of Labour Officer and insofar as the petitioner is concerned and issue a consequential direction to respondents to promote the petitioner as Labour Welfare Officer, by taking into account petitioner's service for a period from 15.12.2006 rendered in Cooperative Sugar Mills in the post of Clerk, along with the regular service for a period



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from 01.07.2004 rendered in the post of Clerk and Accounts Clerk till date as experience with all attendant benefits.

Prayer in WP.No.3922/2020:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the entire records in respect of the communication dated 17.01.2020 and quash the same and consequently direct the respondents to appoint the petitioner as Labour Welfare Officer on the basis of publication of result published on 09.01.2018.

WP.No.23954/2017:-

For Petitioner	:	Mr.R.Saseetharan
For R 1 & 2	:	Mr.S.Ravikumar, Spl.GP
For R3	:	Mr.A.Raja Perumal for Mr.L.P.Shanmugasundaram
For R4	:	Mr.D.Rajagopal
For R5	:	Mr.M.Vijay Mehanth

WP.No.3922/2020:-

For Petitioner	:	Mr.D.Rajagopal
For RR 1 & 2	:	Mr.S.Ravikumar, Spl.GP

COMMON ORDER

(1) Since arguments were advanced in common, a common order is passed.



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(2) Both the writ petitions surround promotion to the post of Labour Welfare Officers in various Cooperative Sugar Mills functioning across the State of Tamil Nadu.

(3) In WP.No.23954/2017, the petitioner questions one of the requirements, which had been stipulated in G.O.Ms.No.93, Industries Department dated 28.07.2017 wherein it had prescribed a minimum experience of 15 years for those who were already working as Accounts Clerk Grade-II in various Cooperative Sugar Mills to be eligible to be considered for further promotion as Labour Welfare Officers. The writ petitioner herein had not completed 15 years of experience. Therefore, he had questioned that particular clause in G.O.Ms.No.93, dated 28.07.2017. Subsequently, the Government had also passed another Government Order in G.O.Ms.NO.132 dated 10.11.2018, whereby the stipulation that those who are to be considered eligible for further promotion to the post of Labour Welfare Officers should have minimum experience of 15 years, had been deleted and that particular clause had been removed, which had opened doors for everybody who were working as Accounts Clerk



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Grade II in various Cooperative Sugar Mills to be considered as eligible for further promotion as Labour Welfare Officers.

- (4) During the course of arguments in WP.No.23954/2017, the learned counsel for the petitioner had laid stress on this particular Government Order, namely, G.O.Ms.No.132 dated 10.11.2018 and stated that since it had been issued during the pendency of the writ petition, and the writ petition had been pending since the year 2016 and consequent to an interim order passed, one post of Labour Welfare Officer had been kept vacant, but the Court can proceed further on the basis of G.O.Ms.No.132. It is stated that the petitioner had completed eligibility criteria of having 15 years of minimum experience. In the meanwhile, one of the candidates who had written the examination under the Notification was put to challenge in WP.No.23954/2017 and was placed in Serial No.17 in the merit list, aggrieved by a second Notification issued calling for list of eligible candidates to be promoted as Labour Welfare Officers, on the basis of G.O.Ms.No.132 dated 10.11.2018, which communication was dated 17.01.2020, had filed WP.No.3922/2020. An interim order of stay had been granted of



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further steps to be taken consequent to the communication dated 17.01.2020. In effect, the Labour Welfare Officer posts are available, on being sanctioned and are vacant only because of the pendency of the two writ petitions. It is therefore only be appropriate that a prudent approach is taken to fill up the said post from among the eligible candidates who not only qualify with the eligibility conditions, but also have qualified in the examinations conducted by the respondents. There would be no advantage accrued to anybody by the posts being kept vacant and the writ petitions being kept pending.

- (5) In the affidavit filed in support of WP.No.23954/2017, the writ petitioner had stated that he was working as Accounts Clerk Grade-II which is a clerical post at Kallakurichi Cooperative Sugar Mills Limited at the then Villupuram District. Thereafter, since there was no promotion for such post, there was a recommendation made seeking promotion as Labour Welfare Officers also from the employees who are already working as Accounts Clerk Grade-II/Clerical. The Government after considering the proposals of the Cooperative Sugar Mills, had re-introduced a common cadre system



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for officers working in Cooperative and Public Sector Sugar Mills and created a ladder for promotion to the eligible in-house personnel from entry level officers upto the level of chief officers. Towards this objective, originally, G.O.Ms.No.68, dated 01.03.2011 had been passed qualifying the posts for which, the employees already in employment would also be considered for further promotion. One of the said post was Labour Welfare Officer. Thereafter, the conditions for such eligibility was passed in G.O.Ms.No.93, dated 28.07.2017. In that particular Government Order, while determining the eligibility of in-service candidates, the primary condition was quite apart from educational qualification, that the candidate should have 15 years of experience. The writ petitioner in WP.No.23954/2017 did not have that particular requisite experience of 15 years and therefore, had filed the writ petition questioning the criteria laid down necessitating 15 years of experience.

- (6) The rationale behind the said eligibility criteria was questioned in the writ petition. When the writ petition came up for consideration, a learned Single Judge, by an order dated 08.01.2018, had directed that



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examinations could be conducted by the respondents to fill up the post of Labour Welfare Officers from among the eligible candidates who had already completed 15 years of experience and also permitted the petitioner in WP.No.23954/2017 to write the said examination, but held that the results should be withheld. Accordingly, the examinations had been conducted and the respondents had furnished before this Court, the list of 31 employees who had written the examination with their marks in the written test out of 60, in computer test out of 10 and interview out of 5, for a total of 75 marks.

- (7) Out of the said 31 employees/candidates who had written the examination, the first 16 were appointed as Labour Welfare Officers in various Cooperative Sugar Mills. The 17th and 18th candidates were held back from being so promoted. The petitioner in WP.No.23954/2017 had also written the examination, but his result had been withheld.
- (8) In the interregnum period, while this particular writ petition was pending, the Notification dated 17.01.2020 had been issued wherein once again, the details of candidates who were eligible to be promoted



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to the post of Labour Welfare Officers in accordance with G.O.Ms.No.132 dated 10.11.2018 by which Government Order, the experience of 15 years had been done away with was issued and questioning that particular letter or communication, the candidate who was placed in Serial No.18, in the results declared, had filed WP.No.3922/2020.

- (9) The learned Single Judge, at the time of admission of WP.No.3922/2020, had granted stay of further proceedings consequent to the communication dated 17.01.2020. In effect, though the posts are available to be filled for the post of Labour Welfare Officer and though the respondents had a list of 31 candidates apart from the petitioner in WP.No.23954/2017, the posts are not filled up owing to the pendency of the writ petitions. In the first writ petition, the petitioner had been permitted to write the examination, but his result had been directed to be withheld and the candidates who secured 17th and 18th positions, after the conclusion of the examinations, have not been promoted as Labour Welfare Officers and in the second writ petition, the attempt to once again select the



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candidates itself has been put on hold. This Court will necessarily have to take a prudent decision in these circumstances.

- (10) The Government Order which now prevails is G.O.Ms.No.132 dated 10.11.2018. In that particular Government Order, the stipulation of 15 years of experience had been taken away. The qualification for the post of Labour Welfare Officer, is for the qualified employees in Cooperative Sugar Mills, in accordance with the qualifications prescribed in the Tamil Nadu Factories [Welfare] Officers Rules, 1953. They must have a Degree in Master of Labour Management or a Bachelor of Labour Management or B.A. in Labour Management or M.A. in Labour Management awarded by the Tamil Nadu Institute of Labour Studies, Chennai or by any University. They may also have a Post Graduate Degree in Social Work or Social Welfare related degrees. They can also have a Bachelor of Law and they must also have a degree awarded by any University other than what had been stated above, but must also have Diploma in Labour Administration or in Labour Laws or in Administration Laws or in Personnel Management Industrial Relations and Labour Welfare or Social Work.



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There is a string of educational qualifications which are available and in which they should qualify themselves.

- (11) Both the petitioners herein are qualified in those educational qualifications. The only issue is with respect to 15 years of experience. That particular 15 years of experience was a pre-condition in G.O.Ms.No.93. But that particular pre-condition had been done away with in G.O.Ms.132 dated 10.11.2018. G.O.Ms.No.132 is what prevails today.
- (12) It would only be appropriate that the result of the petitioner in WP.No.23954/2017 is also declared and thereafter, in accordance with G.O.Ms.No.132, the selection may be made and all the posts of Labour Welfare Officers are filled up in accordance with the availability of the post.
- (13) Today, it is informed that among the candidates who had been earlier promoted, some have retired on attaining the age of superannuation and a few have also unfortunately died. Necessary adjustments may therefore be made by the respondents and all the candidates who are eligible may therefore be promoted to the post of Labour Welfare



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Officers in accordance with G.O.Ms.No.132 dated 10.11.2018 and on the basis of the examinations already conducted and the result of the petitioner in WP.No.23954/2017 may also be declared since it has been withheld only by the directions of this Court and that particular direction is interfered with and a direction is given to the respondents to declare the result of the petitioner in WP.No.23954/2017 whenever appointments may be made. Necessary proceedings to be issued within a period of sixteen weeks from the date of receipt of a copy of this order.

- (14) It is seen that the candidate in Serial No.17, who is the 5th respondent in WP.No.23954/2017 had retired. He may give a representation that if he is eligible to be promoted in accordance with the examinations already conducted. If such representation is given, it may be examined in proper light by the respondents. Similarly, the 4th respondent in WP.No.23954/2017 who is also the writ petitioner in WP.No.3922/2020, may also be accommodated and his accommodation should be on the same date as Serial No.16 had been so promoted as Labour Welfare Officer.



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(15) The writ petitions stand **disposed of**. No costs. Consequently,
connected miscellaneous petitions are closed.

08.09.2023

AP

Internet : Yes

To

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rep.by Principal Secretary to Government
Industries [MIC2] Department
Fort St George, Chennai-9.
- 2.The Commissioner of Sugar
690, Anna Salai, Nanthanam
Chennai – 35.
- 3.The Managing Director,
Kallakurichi No.II Cooperative Sugar Mills
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- 4.The Managing Director,
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C.V.KARTHIKEYAN, J.,



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