



W.P. No.34150 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 08.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P. No.34150 of 2023
and WMP.No.34024, 34025 and 34026 of 2023

R.Prema

.. Petitioner

Versus

1. Union of India
Rep. by the Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat,
Beach Road,
Puducherry 605 001.
2. The Secretary to Government,
Department of Personnel & Administrative Reforms (Personnel Wing),
Government of Puducherry,
Chief Secretariat,
Beach Road, Puducherry 605 001.
3. The Under Secretary to Government,
Department of Personnel & Administrative Reforms (Personnel Wing),
Government of Puducherry,
Chief Secretariat,
Beach Road, Puducherry 605 001.



W.P. No.34150 of 2023

4. The Secretary to Government,
Government of India,
Ministry of Personnel Grievance and Pensions,
Department of Personnel and Training (DoP&T),
North Block,
New Delhi 110 001.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the records relating to the impugned order dated 28.11.2023 passed by the Central Administrative Tribunal, Madras Bench in M.A.No.613 of 2023 in OA.No.248 of 2023, whereby/where under vacating the interim order dated 17.03.2023 passed in OA.No.248 of 2023 and quash the same.

For petitioner : Mr.Prakash Adiapadam

For respondents : Mr.Syed Mustafa, Spl.G.P.

ORDER

(The Order of the Court was made by D.KRISHNAKUMAR, J)

By consent of both the parties, this writ petition is taken up for final disposal.



W.P. No.34150 of 2023

2. This writ petition has been filed challenging the order passed by the Tribunal in M.A.No.613 of 2023 in O.A.No.248 of 2023, dated 28.11.2023 in any by which, the interim order granted on 17.03.2023 was vacated and the respondents were allowed to publish the results of LDCE examination conducted on 6.8.2023, for filling up the vacancies in the post of Assistant.

3. The brief facts leading to the filing of the writ petition is as follows:

The petitioner herein had filed Original application in O.A.No.248/2023 before the Tribunal along with others, (who filed O.A.Nos.241/2023 and 257/2023) challenging the Recruitment Rules for the post of Assistant on various grounds. Consequently, the Recruitment notification for LDCE was also challenged. At the time of admission, the Tribunal has passed a common order dated 17.03.2023 and permitted the Department to conduct LDCE examination, however, refrained them from publishing the result, without leave of the Tribunal. The Interim order passed by the Tribunal is reiterated as follows.



WEB COPY



W.P. No.34150 of 2023

14. By taking into the submission made by the learned counsel on both parties, as an interim measure, applicants in all the O.A.s are allowed to make their application in pursuance of the advertisement issued by the respondents, vide I.D.NOTE/Memorandum, No.A-34012/1/2023/ DP& AR (Exam) dated 16.2.2023, as the last the date of receipt of application is dated 17.03.2023 (t.00 p.m.) i.e. today and such applications of the applicants in all the O.A.s shall be accepted by the respondents till 24.03.2023 evening 5.00 p.m. and allow them to participate in the said LDCE examination conducted by the respondents. Results of the said examination conducted in pursuance of the aforesaid notification shall not be published without the leave of the court.

4. When the above interim order was in force, the respondents herein had filed applications in M.A.Nos.612, 613 614 of 2023 to vacate the interim order on 25.11.2023. After hearing the counsel, the Tribunal had passed the order on 28.11.2023, vacating the interim order already passed on 17.03.2023 and also preponed the final hearing of the original applications from 13.12.2023 to 30.11.2023. Aggrieved by the above said order, the present writ petition has been filed.

5. The learned Senior Counsel appearing for the respondents submitted that the Department had conducted LDCE examination for filling



W.P. No.34150 of 2023

up the post of Assistant by promotion and invited applications from the applicants, working as Upper Division Clerks in the Department.

According to the respondents, totally, 324 Assistant posts are vacant and only 13 persons have approached the Tribunal by filing O.A.Nos.241, 248 and 257 of 2023 (including the petitioner), in which, the Tribunal had granted interim order.

6. He also stated that out of 13 persons, who have moved the Tribunal by filing three original applications (O.A.Nos.241, 248 and 257/2023), seven persons were already selected to the post of Assistant; one person was absent; and the remaining five persons have not passed the LDCE examination (including the petitioner herein).

7. The learned counsel for the respondent fairly agreed before this Court that, without prejudice to their right before the Tribunal, the respondents are undertaking not to fill up the five posts for Assistant, till the final disposal of the original application. The selected persons will be considered for promotion to the post of Assistant and appointment orders will be issued to them by the Department, if otherwise they are eligible.



W.P. No.34150 of 2023

8. It is to be noted that the petitioner has not passed the LCDE Exam and the respondent has given undertaking not to fill up five posts of Assistant, till final order is passed by the Tribunal in the original application.

9. In a similar circumstances, this Court by **order dated 06.12.2023 in WP.No.34077 of 2023**, directed the respondents not to fill up five posts of Assistant, till the final order is passed by the Tribunal in the original application. The relevant paragraph of the said order reads as follows:

"6. In view of the above statement made by the learned counsel for the respondents, the right of the petitioner herein is protected. Therefore, we inclined to dispose the writ petition as follows.

i) As per the undertaking made by the counsel for the respondents, the respondents are directed to keep five posts vacant in the cadre of Assistant, till the final order passed in the original application by the Tribunal.

*ii) As has been stated by the respondents, since the petitioner has passed the LDCE examination, his name has to be considered for promotion to the post of Assistant, **if otherwise, he is eligible.***



W.P. No.34150 of 2023

iii) *We make it clear that any promotion to be made by respondents, shall be subject to the outcome of the original applications before the Tribunal.*

iv) *Both the parties agreed for final disposal of the original application in the second week of January 2024.*

v) *The Tribunal is directed to dispose the original applications, preferably in the second week of January 2023, without being influencing the observations made in the orders passed in the vacate stay petitions.*

iii) *The petitioner is at liberty to agitate all other aspects, raised in the writ petition, before the Tribunal. "*

10. In my considered view, the decision referred to supra, would squarely apply to the case on hand. In fine, this petition is disposed of on the same lines, as extracted in the above paragraph. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J] [P.D.B., J]
08.12.2023

Speaking order: Yes/No
Index : Yes/No
pvs

Page No.7 / 9



W.P. No.34150 of 2023

To

1. The Chief Secretary to Government,
Union of India

Government of Puducherry,
Chief Secretariat,
Beach Road,
Puducherry 605 001.

2. The Secretary to Government,
Department of Personnel & Administrative Reforms (Personnel Wing),
Government of Puducherry,
Chief Secretariat,
Beach Road, Puducherry 605 001.

3. The Under Secretary to Government,
Department of Personnel & Administrative Reforms (Personnel Wing),
Government of Puducherry,
Chief Secretariat,
Beach Road, Puducherry 605 001.

4. The Secretary to Government,
Government of India,
Ministry of Personnel Grievance and Pensions,
Department of Personnel and Training (DoP&T),
North Block,
New Delhi 110 001.



WEB COPY



W.P. No.34150 of 2023

D.KRISHNAKUMAR, J.
and
P.DHANABAL, J.

pvs

W.P. No.34150 of 2023

08.12.2023