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W.P.No.12214 of 2015



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.12214 of 2015

V.S.Manimala

...

Petitioner

versus

1.The Chief Secretary
to the Government of Tamil Nadu,
Secretariat, Chennai - 600 009.

2.The Principal Secretary
to the Government of Tamil Nadu,
Personnel and Administrative
Reforms Department,
Secretariat, Chennai - 600 009.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in G.O.(4D)No.33, dated 19.05.2014 and G.O.(Rt) No.210, dated 02.06.2015, Personnel and Administrative Reforms (U1) Department, quash the same and direct the respondents to regularize the services of the petitioner with effect from the date of her joining as Assistant Section Officer i.e. 15.12.2009".

[Prayer amended as per order dated 18.06.2015 in M.P.No.3 of 2015 in W.P.No.12214 of 2015].



For Petitioner : Mr.K.Subburam
For Respondents : Mr.P.Ananda Kumar
Government Advocate

ORDER

The writ petition is filed challenging the orders of the second respondent in G.O.(4D)No.33, dated 19.05.2014 and G.O.(Rt) No.210, dated 02.06.2015, Personnel and Administrative Reforms (U1) Department and for consequential direction to regularise the services of the petitioner with effect from the date of joining as Assistant Section Officer i.e., 15.12.2009.

2. Heard Mr.K.Subburam, learned counsel for the petitioner and Mr.P.Ananda Kumar, learned Government Advocate for the respondents.

3. It is the case of the petitioner that she was recruited through the Tamil Nadu Public Service Commission and was posted as an Assistant and is presently working as Assistant Section Officer in the Home Department since 15.12.2009. When the petitioner was working as Assistant, by order dated 10.12.2009, she was temporarily promoted to the post of Assistant Section Officer under Rule 39(a)(i) of the Tamil Nadu State & Subordinate



Service Rules *vide* G.O.(4D)No.48, Personnel and Administrative Reforms

(U) Department dated 10.12.2009.

4. It is the grievance of the petitioner that almost nearly 96 employees, including the petitioner, were promoted to the said post, however when the impugned order was issued, the services of 38 employees were singled out for preferential treatment and their services were regularised with effect from the date of their joining, i.e., 10.12.2009, whereas by the impugned order, the petitioner has been regularised only with effect from 08.02.2011 instead of joining duty on 15.12.2009. Aggrieved by these proceedings, the above writ petition is filed.

5. The learned counsel for the petitioner submitted that since the petitioner has been promoted as early as on 15.12.2009, the petitioner also ought to have been included along with 38 employees, whose services have been regularised with effect from the date of appointment itself and the impugned order of the respondents is discriminating against the petitioner by regularising the services from 08.02.2011 instead of 15.12.2009 and sought for indulgence of this Court.



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6. The learned Government Advocate for the respondents, relying on the counter affidavit, submitted that the petitioner was only given temporary promotion under Rule 39(a)(i) of the Tamil Nadu State & Subordinate Service Rules to the post of Assistant Section Officer and only due to the need that arose in view of the directions issued in W.P.No.3593 of 2008 filed by the Association. However, later, when the services were sought to be regularised, it came to light that since the petitioner, who is before this Court, had not completed the probation as on the crucial date, her services have not been regularised with effect from 2009 onwards. But she completed probation in the subsequent year, her name has been included and her services have been regularised in the post of Assistant Section Officer from the year 2011. Since none of the juniors of the petitioner have been placed above the writ petitioner, the impugned regularisation order has been passed by considering the Rules and sought for dismissal of the writ petition.

7. It is the admitted case of the writ petitioner, who was originally appointed as Assistant, that she was given temporary promotion on 15.12.2009 under Rule 39(a)(i) of the Tamil Nadu State & Subordinate



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Service Rules only due to the orders passed in view of the pendency of the Writ Petition in W.P.No.3593 of 2008 filed by the Association. Later, when the suitable incumbents also came to be promoted, the services of these candidates were regularised and regularisation proceedings were initiated and only 38 persons who were promoted along with the petitioner had completed probation as on the crucial date and therefore they had been included in the 2009-2010 panel itself and therefore their services were regularised with effect from 2009.

8. However, since the petitioner had not completed the probation as on the date of 15.12.2009, she was temporarily promoted under Rule 39(a)(i) of the Tamil Nadu State & Subordinate Service Rules, and her services were not able to be regularised as on that date. Since she completed probation later, the name of the petitioner had been included in the 2010-2011 panel and therefore the impugned Government Order was issued regularising the services of the petitioner with effect from 2011 onwards.

9. Since the petitioner has completed probation later and her promotion was given in the year 2009 was only a temporary promotion, the services of the petitioner in the post of Assistant Section Officer have been



regularised with effect from 2011 in view of the impugned orders passed.

Hence, there is no error or illegality in the impugned orders passed in the earlier writ petition regularising the services of the petitioner from the date on which the petitioner came to be eligible and qualified to be included in the panel fit for promotion.

10. In view of the same, this Writ Petition stands *dismissed*. There shall be no order as to costs.

19.10.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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G.ARUL MURUGAN, J.

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