



WEB COPY

W.P.No.12966 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.12966 of 2015

1.P.Ulaganathan
2.N.Vishwanathan
3.B.N.Sudarsan

...

Petitioners

versus

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

2.The Principal Secretary
to the Government of Tamil Nadu,
Personnel and Administration 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, Personnel and Administrative Reforms (U1) Department, dated 19.05.2014 and quash the same and direct the respondents to regularize the services of the petitioners with effect from the date of their joining as Assistant Section Officers i.e. 14.12.2009.

For Petitioners

:

Mr.G.Sankaran
Senior Counsel
for Mr.S.Nedunchezhiyan



For Respondents : Mr.Stalin Abhimanyu
Additional Government Pleader

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ORDER

The writ petition is filed challenging the order of the second respondent in G.O.(4D)No.33, Personnel and Administrative Reforms (U1) Department dated 19.05.2014 and for consequential direction to regularise the services of the petitioners with effect from the date of joining as Assistant Section Officers i.e., 14.12.2009.

2. Heard Mr.G.Sankaran, learned Senior Counsel for the petitioners and Mr.Stalin Abhimanyu, learned Additional Government Pleader for the respondents.

3. It is the case of the petitioners that they were recruited through the Tamil Nadu Public Service Commission and were posted as Assistants and is presently working as Assistant Section Officers in the Home Department since 14.12.2009. When the petitioners were working as Assistants, by order dated 10.12.2009, they were temporarily promoted to the post of Assistant Section Officers 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 petitioners that almost nearly 96 employees, including the petitioners, 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 petitioners have been regularised only with effect from 08.02.2011 instead of joining duty on 14.12.2009. Aggrieved by these proceedings, the above writ petition is filed.

5. The learned Senior Counsel for the petitioners submitted that since the petitioners have been promoted as early as on 14.12.2009, the petitioners 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 petitioners by regularising the services from 08.02.2011 instead of 14.12.2009 and sought for indulgence of this Court.



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6. The learned Additional Government Pleader for the respondents, relying on the counter affidavit, submitted that the petitioners were only given temporary promotion under Rule 39(a)(i) of the Tamil Nadu State & Subordinate Service Rules to the post of Assistant Section Officers 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 petitioners, who are before this Court, had not completed the probation as on the crucial date, their services have not been regularised with effect from 2009 onwards. But they completed probation in the subsequent year, their names have been included and their services have been regularised in the post of Assistant Section Officers from the year 2011. Since none of the juniors of the petitioners have been placed above the writ petitioners, 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 petitioners, who were originally appointed as Assistants, that they were given temporary promotion



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on 14.12.2009 under Rule 39(a)(i) of the Tamil Nadu State & Subordinate 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 petitioners 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 petitioners had not completed the probation as on the date of 14.12.2009, they were temporarily promoted under Rule 39(a)(i) of the Tamil Nadu State & Subordinate Service Rules, and their services were not able to be regularised as on that date. Since they completed probation later, the name of the petitioners had been included in the 2010-2011 panel and therefore the impugned Government Order was issued regularising the services of the petitioners with effect from 2011 onwards.



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9. Since the petitioners have completed probation later and their promotion was given in the year 2009 was only a temporary promotion, the services of the petitioners in the post of Assistant Section Officers have been regularised with effect from 2011 in view of the impugned order passed. Hence, there is no error or illegality in the impugned order passed in the earlier writ petition regularising the services of the petitioners from the date on which the petitioners 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

sri

To

1.The Chief Secretary to the Government,
Government of Tamil Nadu,

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W.P.No.12966 of



Secretariat, Chennai - 600 009.

2. The Principal Secretary
to the Government of Tamil Nadu,
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G.ARUL MURUGAN, J.

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