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W.P.No. 2703 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.2703 of 2024
and
W.M.P.No. 2983 of 2024

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Petitioner

Vs

1. The Additional Chief Secretary to Government,
Home (Transport IV) Department,
Secretariat, Chennai – 9.

2. The Transport Commissioner,
Chepauk, Chennai – 5.

3. The Regional Transport Officer,
Hosur.

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Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the order passed by the second respondent herein passed in his Proc.No.17465/RB1/2023 (E.O.No.45/2024) dated 25.01.2024 reverting the petitioner from the post of Assistant to that of Typist and the consequential order passed by the third respondent herein in his Proceedings No.4006/A2/2024 (Pa.Aa.Aa.06/2024) dated 31.01.2024 and quash the



W.P.No. 2703 of 2024

same and consequently direct the first respondent herein to relax Rule 30(c) of the Special Rules for Tamil Nadu Ministerial Service Rules in favour of the writ petitioner and ratify the order of promotion of the petitioner as Assistant with due seniority and all other consequential benefits.

For Petitioner : Mr. Ravi Shanmugam
Senior Counsel
for Mr.R.Naresh Kumar

For Respondents : Mrs.R.L.Karthika
Government Advocate

ORDER

This Writ Petition has been filed challenging the order dated 25.01.2024 in Proceedings No.17465/RB 1/2023 (E.O.No.45 of 2024) passed by the second respondent, thereby reverting the petitioner from the post of Assistant to the post of Typist and the consequential order dated 31.01.2024 in Proceedings No.4006/A2/2024 (Pa.Aa.Aa.06/2024) passed by the third respondent.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was selected and appointed as Typist in the



W.P.No. 2703 of 2024

Transport Department on 10.12.2010. His service was regularised on 24.07.2012 as Typist with effect from 10.12.2010. He had passed all the departmental tests and probation has been declared as satisfactorily with effect from 09.12.2012. He also undergone Bhavanisagar Training. On 17.01.2013, the Deputy Transport Commissioner, Trichirappalli, had forwarded his particulars for promotion to the post of Assistant. Since the petitioner had passed Tamil Nadu Government Manual Test, Account Test Part I, Motor Vehicle Act 1988 and Tamil Nadu Motor Vehicles Rules, 1989, Code of Criminal Procedure for Transport Department Staff, Computer Course on Office Automation, he has qualified for promotion as Assistant.

4. Considering the above aspects, by an order dated 28.02.2013, the petitioner was promoted to the post of Assistant. From the date of his appointment, i.e., on 10.12.2010, till the date of his promotion as Assistant, he was not posted as clerical training Junior Assistant by the second respondent for a period of one year. Therefore, it was an administrative fault in not posting him for one year clerical training as Junior Assistant post in accordance with Rule 30(c) of the Tamil Nadu Ministerial Service



W.P.No. 2703 of 2024

Rules. For the post of Superintendent, the qualification is one year of service as Accountant and two years of service as Assistant in the office of the State Transport Authority/State Transport Appellate Tribunal/Joint Transport Commissioner/Deputy Transport Commissioner/Assistant Accounts Officer. The petitioner had completed one year service as Accountant from 20.08.2014 to 29.11.2015 and two years service as Assistant in the office of the Deputy Transport Commissioner from 30.11.2015 to 05.12.2017. Therefore, he is qualified for the next promotion to the post of Superintendent. On 01.06.2022, he was posted as Assistant in Hosur Outgoing Check Post and still he is working as Assistant.

5. Similarly placed persons were approached this Court in W.P.No.13520 of 2018 etc., batch for direction directing the Government to relax Rule 30(c) of the Special Rules for the Tamil Nadu Ministerial Service Rules and consequently to promote them as Superintendent with all consequential benefits. This Court, by an order dated 13.03.2019, allowed the writ petitions and directed the Government to grant relaxation of Rule 30(c) of the Tamil Nadu Ministerial Service Rules and to ratify their



W.P.No. 2703 of 2024

promotion as Assistant without undergoing the training period of one year in the post of Junior Assistant. It was also confirmed by the Hon'ble Division Bench of this Court in W.A.No.1565 of 2019 by an order dated 19.06.2023. While complying with the said order, the revised seniority list of Assistant for the year 2013-2014 was published. However, the petitioner's name was not included in the list and he was not granted the benefits of relaxation of Rule 30(c) of the Tamil Nadu Ministerial Service Rules. Now, by the impugned order dated 25.01.2024, the second respondent reverted the petitioner from the post of Assistant to the post of Typist on the ground that he had not completed clerical training as Junior Assistant on the crucial date of panel.

6. In the order passed by this Court in W.P.No.13520 of 2018, this Court held as follows :

“47. Thus, this Court has to arrive at a conclusion that the denial of an opportunity to undergo the training in the post of Junior Assistant cannot cause any injustice to the writ petitioners for getting further promotion to the post of Office Superintendents. This Court of an undoubted opinion that the writ petitioners have not committed any fault. They were appointed as Typists/Steno-typists and they were



WEB COPY



W.P.No. 2703 of 2024

promoted to the post of Assistants/Accountants and they served in that capacity for about 4 years and the post of Assistant is the feeder category for promotion to the post of Office Superintendents.

48. This being the factum, the administration committed a fault in not sending these typists to undergo the training for a period of one year in the post of Junior Assistants. However, the administration promoted them to the post of Assistants and other writ petitioners, who all are already served for about 4 years in the Ministerial Service.

49. Thus, the purpose and the objects of the Rule had already been fulfilled and under these circumstances, the purpose and the object of the Rule should be constructively interpreted enabling the writ petitioners to get further promotion to the post of Office Superintendents. In the event of not having such an approach, the writ petitioners are denied of their promotion without any fault on their part.

50. This apart, the promotion to the post of Assistants granted to the writ petitioners were not challenged. They served in the post of Assistants for about 4



WEB COPY



W.P.No. 2703 of 2024

years. Under these circumstances, this Court has no hesitation in coming to the conclusion that the writ petitioners suffered an administrative lapse on the hands of the respondents and therefore, the exceptional circumstances now portrayed before this Court in the present writ petitions, warranted that, the writ petitioners must be considered for the purpose of grant of relaxation of Rule 30(c) of the Special Rules for Tamil Nadu Ministerial Service Rules and by way of ratification in respect of promotion as Assistant enabling the writ petitioners to get promotion to the post of Office Superintendents in the panel of the year 2016-2017.

51. Even this Court, while interpreting the scope of the Rule of relaxation categorically enumerated that the Rule of relaxation is to be exercised only on exceptional circumstances in order to redress the grievances, if there is any injustice caused to the employees without any fault on their part. The case of the writ petitioners on hand squarely falls under the category, where without any fault on their part, they are now penalised by not granting promotion to the post of Superintendents. Thus, the lis on hand is an exceptional one, wherein rule relating to relaxation is to be invoked.”

7. Thereby, the respondents are directed to pass necessary order



W.P.No. 2703 of 2024

for granting relaxation of Rule 30(c) of the Tamil Nadu Ministerial Service Rules in favour of the petitioners and also ratify the act of the competent authority in granting promotions to the post of Assistant to all these petitioners, without undergoing the training for a period of one year in the post of Junior Assistant. Since the petitioner did not approach this Court, he was not granted any relaxation under Rule 30(c) of the Tamil Nadu Ministerial Service Rules. Further, the Hon'ble Division Bench of this Court in W.A.No.1565 of 2019, while confirming the order passed by the Hon'ble Single Judge of this Court, held that the petitioners were not given one year training as Junior Assistant due to administrative reasons. Further, they were not given an opportunity to complete the training as Junior Assistant for one year at that point of time and it is not their fault. Therefore, the learned Single Judge of this Court rightly rejected the plea of the Government to ratify the relaxation under Rule 30(c) of the Tamil Nadu Ministerial Service Rules. Now, on the very same ground, the petitioners name was deleted from the panel to the post of Assistant for the year 2013-2014 and reverted him to the post of Typist.

8. In view of the above, the order dated 25.01.2024 in



W.P.No. 2703 of 2024

Proceedings No.17465/RB 1/2023 (E.O.No.45 of 2024) passed by the second respondent, and the consequential order dated 31.01.2024 in Proceedings No.4006/A2/2024 (Pa.Aa.Aa.06/2024) passed by the third respondent, are hereby set aside. Accordingly, this Writ Petition stands allowed. The first respondent is directed to relax the Rule 30(c) of the Special Rules for Tamil Nadu Ministerial Service Rules in favour of the petitioner and ratify the order of promotion of the petitioner as Assistant and all other consequential benefits, within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

07.02.2024

Index:Yes/No
Speaking Order: Yes
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WEB COPY



W.P.No. 2703 of 2024

G.K.ILANTHIRAIYAN, J.

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To

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10/10