IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.21339 & 21340 of 2015
and
M.P.Nos.2 & 2 of 2015

S.Hemalatha ... Petitioner in W.P.No.21339 of 2015

J.Juliana Rathna ... Petitioner in W.P.No.21340 of 2015

Vs.

1.The Principal Secretary to Government
Finance, Treasury Accounts Department-II
Fort St. George
Chennai – 600 009.

2.The Director
Department of Treasury & Accounts
Panagal Building, Saidapet
Chennai – 600 015. ... Respondents in both W.Ps.

Prayer in both W.Ps : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 17.06.2015 Ref.No.Na.Ka.22499/2015/N2 issued by the 2nd respondent and delivered to the petitioner on 25.06.2015 and quash the same and consequentially direct the respondent authorities 1 & 2 to grant promotion to the petitioner to the post of Assistant Treasury Officer following the object of G.O.Ms.No.51 dated 25.02.2014 by fixing her seniority from 25.02.2014 and grant her all service benefits considering her seniority.

In both W.Ps.	For Petitioners	: Mr.S.Thanka Sivan
	For R1 & R2	: Mr.R.Vigneshwaran Government Advocate

COMMON O R D E R

Both the petitioners herein, while working as Superintendent/Sub-Treasury Officer have opted to relinquish their right for promotion to the post of Assistant Treasury Officer (in short 'ATO')/Senior Superintendent temporarily and accepting their relinquishment, the Commissioner of Treasury and Accounts, Chennai issued proceedings in R.C.45060/12/N1 dated 16.05.2013, accepting their request for relinquishment of promotion from 28.12.2012 to 27.12.2015. In view of the their relinquishment, their cases were not considered for promotion to the post of ATO/Senior Superintendent during the said period. In the meanwhile, the Government issued G.O.Ms.No.51 Finance (T&A-II) Department, dated 25.02.2014 dispensing with the requirement of undergoing training in order to be eligible for promotion to the post of ATO/Senior Superintendent and in view of the same, the petitioners made a claim for consideration of their cases for promotion to the post of ATO/Senior Superintendent on the ground that they have opted to relinquished their promotion for want of undergoing the training, which is now dispensed with through G.O.Ms.No.51 Finance (T&A-II) Department, dated 25.02.2014, irrespective of the operation of period of relinquishment. The said claim of the petitioners was rejected by the respondents stating that the period of relinquishment is in operation till 27.12.2015 and therefore, their cases cannot be considered for promotion during operation of the said period of relinquishment. It is aggrieved by the said action of the respondents, the petitioner approached this Court by filing the present writ petitions.

2. It is not in dispute that the temporarily relinquishment of promotion made by the petitioners was accepted through proceedings dated 16.05.2013 that is for the period from 28.12.2012 to 27.12.2015. The said proceedings dated 16.05.2013, through which the petitioners request for relinquishment was accepted does not indicate any reason for such relinquishment. Rule 47 of Tamil Nadu State and Subordinate Rules reads as under:

> ***"47. Relinquishment of rights by members –*** *(1) Any person may in writ ing, relinquish any right or privilege to which he may be entitled under these rules or privilege to which he may be entitled under these rules or the Special Rules if, in the opinion of the appointing authority, such relinquishment is* ***not opposed to public interest,*** *and nothing contained in these rules or the Special Rules shall be deemed*

to require the recognition of any right or privilege to the extent to which it has been so relinquished.

[(2) Relinquishment of a right or privilege for a temporary period shall be accepted if it is made for a period of not less than three years subject to the condition that after the expiry of the said period, the claim of the right or privilege relinquished will be with reference to the state of affairs that exist on the date of expiry of period of relinquishment and without restoration or original seniority. If relinquishment of right or privilege is made permanently and is accepted, subsequent claim of the relinquished rights or privileges shall not be entertained.]"

3. From perusal of the above Rule, it is very clear that once relinquishment is made temporarily, the same shall be in operation for three years and their right to promotion would be considered only on expiry of said period as per the circumstances prevailing at that point of time.

4. In the instant case, it is not even the case of the petitioners that the any of their juniors were promoted to the post of ATO/Senior Superintendent after the expiry of the period of relinquishment or before the date of their relinquishment from service. Both the petitioners have already retired from service long back. In the absence of any claim that any of their juniors were

promoted after the expiry of the relinquishment period, the petitioners cannot have any grievance nor can be stated to have been discriminated by the respondents. Once the relinquishment voluntarily made by the petitioners, the petitioners are estopped from making any claim for promotion irrespective of dispensing with the requirement of undergoing training in order to eligible for promotion.

5. In the circumstances, this Court does not find any merits in both the writ petitions and accordingly, they are dismissed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

21.10.2024

dpa
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

MUMMINENI SUDHEER KUMAR, J.

dpa

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