



W.P.No.25793 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.25793 of 2012
and M.P.No.2 of 2012

H.Jothimani

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by the Principal Secretary,
Department of School Education,
Fort. St. George,
Chennai-600 009.

2.The Director of Public Libraries,
Directorate of Public Libraries,
737/1, Anna Salai,
LLA Building, Chennai-600 002,
PBX No.600 002.

3.T.Vijiyalakshmi
4.K.Rajendran
5.M.Nirmala
6.K.Devaki
7.S.P.Manoharan
8.K.Manthiram
9.V.Balakrishnan
10.R.Shanmuganathan
11.K.Anandan
12.C.Rejendran
13.P.Thangavel
14.K.N.Rajendran



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15.R.Sellal

16.M.Ramachandran

17.D.Chinnathambi

18.S.Elango Chandrakumar

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the Impugned order of the 1st respondent in G.O.No.109 dated 07/05/2012 and G.O.No.110 dated 07/05/2012 and to quash the same as it is against the rules 3(ii) read with the rule 4(b)(ii) of the amended adhoc rules relating to temporary posts of District Library Officers in Education Department (G.O.Ms.No.1234, Education, 27th June 1981) and consequently direct the respondents 1 & 2 to appoint the petitioner as District Library Officer.

For Petitioner : Mr.R.Rajendran

For R1 & R2 : Ms.P.Rajarajeswari, Govt. Advocate

ORDER

The petitioner assails G.O.Ms.No.109, School Education (K2) Department, dated 07.05.2012 (*G.O.Ms.No.109*) and G.O.Ms.No.110, School Education (K2) Department, dated 07.05.2012 (*G.O.Ms.No.110*)



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in so far as it relates to the relaxation of Rule 4(b)(ii) of the Ad hoc Rules relating to temporary posts of District Library Officers. The consequential relief prayed for is to direct respondents 1 & 2 to appoint the petitioner as District Library Officer.

2.Learned counsel for the petitioner invited my attention to Rule 4(b)(ii) of the Ad hoc Rules and pointed out that the experience qualification prescribed for the post of District Librarian Grade-1 is experience for a period of not less than five years as Librarian Grade -1. By further asserting that respondents 3 to 18 did not satisfy the experience criterion, he submits that their appointment is vitiated. In this connection, he relies upon G.O.Ms.No.368, Personnel and Administrative Reforms Department, dated 18.10.1993, to contend that promotion or appointment cannot be made on the basis of executive orders seeking to modify the Rules, because the Rules are framed under Article 309 of the Constitution of India. He further submits that the petitioner had completed nine years and three months service in the cadre of Librarian Grade-1 and was, therefore, fully qualified unlike respondents 3 to 18.



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3. In response to these contentions, learned Government Advocate, who represents respondents 1 and 2, submits that the experience requirement was relaxed in exercise of powers conferred under Rule 48 of the Tamil Nadu State and Subordinate Services Rules. Consequently, she submits that the appointment of respondents 3 to 18 was in accordance with the rules, as relaxed by *G.O.Ms.Nos.109 & 110*. As regards the petitioner, she submits that the petitioner was not eligible as per State-wise seniority and did not challenge the transition from District-wise seniority to State-wise seniority.

4. Rule 48 of the Tamil Nadu State and Subordinate Services Rules reads as under:

“48. Notwithstanding anything contained in these rules or in the special rules, the Governor shall have power to deal with the case of any person or class of persons serving in a civil capacity under the Government of Tamil Nadu or of any person who has or of any class of persons who have served as aforesaid or any candidate or class of candidates for appointment to a service in such manner as may appear to him to be just and equitable:



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Provided that, where any such rule is applicable to the case of any person or class of persons, the case shall not be dealt with in any manner less favourable to him or them than that provided by that rule.”

The above rule empowers the Governor to deal with the case of any person or class of persons in such manner as appears to him to be just and equitable subject to the condition that any modification of rules previously applicable to such person or class of persons should not be adverse to such person or class of persons.

5.In the case at hand, the class of persons are those employed as Librarian Grade-1. As per Rule 4(b)(ii), such persons were required to have work experience of not less than five years as Librarian Grade – 1. By resorting to Rule 48, this requirement was relaxed. It certainly cannot be said that such relaxation was adverse to the class of persons to whom the Rules are applicable. Consequently, the proviso to Rule 48 has not been violated.

6.The admitted position is that the petitioner did not assail the transition from District-wise seniority to State-wise seniority. The



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petitioner was not appointed by reckoning her seniority in the State-wise seniority list. In these circumstances, no case is made out to interfere with the orders impugned herein.

7. Therefore, W.P.No.25793 of 2012 is dismissed without any order as to costs. Consequently, connected miscellaneous petition is closed.

20.12.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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