



W.P.No.30646 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

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THE HONOURABLE MRS. JUSTICE R. KALAIMATHI, J.

W.P.No.30646 of 2012

and

M.P.No.2 of 2012

Subbulaksmi (Deceased)

2.J.Babu

3.B.Monicka

4.Minor Shonigaa

[minor appellant represented by her father,
J.Babu, the 2nd petitioner herein]

... Petitioners

..Vs..

1.The District Treasury Officer,
District Treasury,
Tirupur,
Tirupur District.

2.The District Collector,
Thoothukudi District,
Thoothukudi.

3.Tamil Nadu Public Service Commission,
Chennai represented by its
Secretary.

4.The Government of Tamil Nadu
Represented by its Secretary,
Treasuries and Accounts Department,
Chennai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent in Ka.Mu.A21/2012/A1 dated 19.07.2012 and to quash the same insofar as it fails to include the name of the petitioner in the list of eligible for the promotion to the post of Accountant and consequently direct the respondents herein to include the name of the petitioner in the appropriate place in the said list with all consequential benefits.

For Petitioners : Mr. K.M. Subramaniam

For R1, R2 & R4 : Mrs.C.Sangamithirai,
Special Government Pleader

For R3 : Mr.R.Bharanidharan,
Standing Counsel for TNPSC

ORDER

The proceedings in Ka.Mu.A21/2012/A1, dated 19.07.2012 issued by the first respondent is under challenge.

2. Subsequent to the death of the sole petitioner, namely Subbulakshmi, the petitioners No.2 to 4 have been brought on record, as per order dated 13.12.2021 made in W.M.P.No.37205/2018.



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3. The case of the deceased petitioner Subbulakshmi is that, she was selected in the interview and appointed as temporary Junior Assistant in the Rural Welfare Department and posted in the Panchayat Union Office at Ottapidaram, Tuticorin District. She appeared for the Group IV Services special competitive examination-2007 conducted by the Tamil Nadu Public Service Commission, on 17.02.2008. Selection List was released on 23.04.2009 by the Tamil Nadu Public Service Commission, but, her name was withheld, for want of Community Certificate. It has been averred in the petition that the Tamil Nadu Public Service Commission called for report from the District Committee headed by the District Collector, Tuticorin, the second respondent herein by its letter, date 05.12.2008, with regard to the genuineness of the petitioner's Community Certificate.

4. Heard Mr.K.M.Subramanian, learned counsel for the petitioners and Smt.Sangamithirai, learned Special Government Pleader for the respondents 1, 2 & 4 and Mr.R.Bharanidharan, learned Standing Counsel for TNPSC.



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5. Mr.K.M.Subramanian, learned counsel for the petitioners would state that the District Committee by its proceedings dated 19.06.2009 [mistakenly typed as 19.06.1990] confirmed the genuineness of the Community Certificate of the deceased petitioner that she belonged to Hindu Pallar Community. By an order of appointment, dated 18.03.2010, she was appointed as Junior Assistant in the Tirupur District Treasury. She completed her probation on 16.03.2012. Despite, her representation dated 16.07.2012 to the District Treasury Officer, to include her name in the list of eligible persons for the promotion to the post of Assistant, her name was not found in the proceedings Ka.Mu.A21/2012/A1, dated 19.07.2012. Though, she is eligible for promotion, considering her seniority and eligibility. The crucial date for preparation of promotion panel is 15.03.2012.

6. Aggrieved by the said proceedings, this Writ Petition came to be filed.

7. Smt.Sangamithirai, learned Special Government Pleader appearing for the respondents 1, 2 & 4 would submit that, as per Tamil Nadu Ministerial Service Rules 13-A, the crucial date on which the candidates



should possess the prescribed qualification for the purpose of inclusion in the annual list of approved candidates for appointment to the post by promotion and recruitment by transfer shall be 15th March of every year. She would further contend that as per the said provision, she completed her probation only on 16.03.2012 afternoon. The crucial date is 15.03.2012 and she was not eligible for 2012 accountant panel and her name was included in 2013 accountant panel.

8. The rule position with regard to promotion is Rule 36(a) of Tamil Nadu State and Subordinate Service Rules. For better understanding the said provision is extracted hereunder:

"Rule 36 (a) Promotion:- No member of a service or class of a service shall be eligible for promotion from the category in which he was appointed to the service unless he has satisfactorily completed his probation in that category:

Provided that a member of a service or class of a service who, having satisfactorily completed his probation in the category in which he was appointed to the Service, has been promoted to the next higher category shall, notwithstanding that he has not been declared to have satisfactorily completed his probation in such higher category be eligible for



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promotion from such higher category:

Provided further that if scales of pay of posts in the feeder categories are different, the persons holding post carrying a higher scale of pay in the feeder category shall be considered first and that, if no qualified and suitable persons holding post in that feeder category are available, the persons holding post carrying the next higher scale of pay in descending order in other feeder categories shall be considered."

9. As per Rule 36(a) of Tamil Nadu Ministerial Service Rules, the crucial date, on which candidates should possess the prescribed qualifications for the purpose of inclusion of annual list of approved candidates for appointment to the post by promotion and recruitment by transfer shall be 15th March of every year.

10. Therefore, it is made clear that as per Rule 36(a) of Tamil Nadu Ministerial Service Rules, on the crucial date namely 15.03.2012, the deceased petitioner did not complete her probation and only on the next day, she has completed her probation. On the crucial date i.e., on 15.03.2012, as she did not complete her probation, her name was not included in the 2012



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accountant promotion panel.

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11. For the said reasons, the impugned order cannot be found fault with and it does not suffer from any perversity.

12. Based on the aforesaid discussions, and submissions, the Writ Petition stands dismissed. There is no order as to costs. Consequently, the connected miscellaneous petition stands closed.

01.07.2024

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Index : Yes

Internet : Yes

Neutral Citation Case: Yes/No

To:

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