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Writ Petition No.1173 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2024

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THE HONOURABLE MR JUSTICE BATTU DEVANAND

WP NO. 1173 of 2018

& WMP No.1462 of 2018

1.J.O.Harinarayanan,
S/o.Late.Mr.J.Obulisamy, No.129/8, Chamundi
Street, Gugai, Salem-636 006

2.P.Jayagandhi

Petitioner(s)

Vs

1.Government of Tamil Nadu,
Rep. by its Secretary, School Education
Department, Secretariat, Chennai-600 009

2. The Director,
Directorate of Public Libraries, 737/1,
Anna Salai, Chennai-600 002.

3. The Tamil Nadu Public Service
commission, rep by its Secretary, Frazer Bridge
Road, V.O.C. Nagar, Park Town, Chennai-600
003.

Respondent(s)

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 connected with the impugned notification issued by the third respondent in no.27 of 2017 dated 21.11.2017, quash the same and consequently direct the first respondent to frame Special Rules by providing



Writ Petition No.1173 of 2018

adequate representation to all the feeder categories by fixing proper ratio including that of qualified Superintendents, in accordance with law and thereafter, resort to direct recruitment in the better and efficient administration of the Library Department.

For Petitioner(s):

Mr.R.Rengaramanujam

For Respondent(s):

Mr.A.M.Ayyadurai, Govt Advocate for R1 & 2

M/s.G.Hema, St.C for R3

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records connected with the impugned notification issued by the third respondent in no.27 of 2017 dated 21.11.2017, quash the same and consequently direct the first respondent to frame Special Rules by providing adequate representation to all the feeder categories by fixing proper ratio including that of qualified Superintendents, in accordance with law and thereafter, resort to direct recruitment in the better and efficient administration of the Library Department.

2.A counter affidavit has been filed on behalf of the respondents.



Writ Petition No.1173 of 2018

WEB COPY

3.The learned counsel on either side advanced their arguments based on the averments made in the affidavit and counter affidavits.

4. During the course of hearing, the learned counsel on either side would submit that the issue involved in the present Writ Petition has been dealt with by a learned Single Judge of this Court in W.P.Nos.33676 of 2017 & 10039 of 2021 vide order dated 30.10.2024. They produced a copy of the said order before this Court. On perusal of the same, this Court is of the considered view that the issue involved in this Writ Petition is decided by this Court vide order stated supra and the facts and circumstances of the case in W.P.Nos.33676 of 2017 & 10039 of 2021 are similar to the present case and therefore, the order passed therein, will hold good to the present Writ Petition also.

5. The relevant paragraphs of the order dated 30.10.2024, are extracted herein under:

“19. In the light of the procedure that was followed by the respondents 1 & 2 in the matter of preparation of panel, approval of the panel and appointments made on transfer to the post of District



WEB COPY



Writ Petition No.1173 of 2018

Library Officer from the categories falling under Rule 3 (ii) of the Adhoc Rules is liable to be declared as illegal and arbitrary, especially in the context of the specific contention of the petitioners that none of the respondents 4 to 15 possessed qualification of experience as on the crucial date of the relevant panel years, when the vacancies actually occurred.

“20. The another issue, whether the experience put up by the petitioners in the post of Superintendent prior to acquiring the educational qualification is to be treated as qualified experience or not, or it is only, the experience put up by the petitioners after acquiring requisite educational qualification is to be considered. Though elaborate arguments are advanced, the same is not a matter actually arise for consideration in these matters, as the respondents have not rejected the case of the petitioners on that ground.

21. Yet another contention raised by the respondents that, the alternative mode of recruitment of appointment by transfer from the post of Superintendent and other service is not a mandatory requirement. Such a contention cannot be accepted for the simple reason that the Adhoc Rules provides for such method of recruitment, only in the absence of availability of eligible candidates falling under Rule 3(i) and 3(ii) of the Adhoc Rules. When the Rules provides for such a right of consideration to the Superintendent working in other services, the same cannot be deprived of when such an occasion arise and eligible Superintendents are available for consideration of their cases for promotion to the post of District Library Officer under Rule 3(iii) of Adhoc Rules. When a Rule mandates a particular manner, that has to be given its true effect, but the same cannot be allowed to be frustrated on frivolous grounds. Therefore, the contention that, the method of recruitment provided under Rule 3(iii) of the Adhoc Rules is not a mandatory cannot be accepted. In case, if there are no eligible



WEB COPY



Writ Petition No.1173 of 2018

candidates falling under Rule 3(i) and 3(ii) of Adhoc Rules, it is obligatory on the part of the respondents 1 and 2 to resort to method of recruitment provided under Rule 3(iii) of the Adhoc Rules.

22. In the light of the above, the impugned orders in both the writ petitions are liable to be quashed and they are accordingly quashed and both the writ petitions are allowed with the following directions;

The respondents 1 and 2 are directed to ascertain the vacancies that arose year wise during the panel years 2012-2013 to 2016-2017 and fill up the said vacancies by preparing year wise panels by considering all the eligible candidates as on the crucial date of the relevant panel year and in case, if there are no qualified candidates falling under Rule 3(i) and Rule 3(ii) then, the respondents shall consider the case of the petitioners and other similarly placed persons for being appointed by transfer to the post of District Library Officer under Rule 3(iii) of Adhoc rules by duly taking into consideration the experience put up by them as Superintendents in Tamilnadu Ministerial Service of Public Library Department as the requisite qualification within the meaning of Rule 4 (b) of the Adhoc Rules and pass orders in accordance with law. In case, if they come up within the zone of consideration and found to be eligible otherwise, they shall be given promotion with effect from 30.05.2017 with all consequential benefits.”

6. Accordingly, by following the above order stated supra, the impugned order dated 21.11.2017 in no.27 of 2017, issued by the third respondent is hereby quashed and the Writ Petition is allowed with the



Writ Petition No.1173 of 2018

following directions:

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The respondents 1 and 2 are directed to ascertain the vacancies that arose year wise during the panel years 2012-2013 to 2016-2017 and fill up the said vacancies by preparing year wise panels by considering all the eligible candidates as on the crucial date of the relevant panel year and in case, if there are no qualified candidates falling under Rule 3(i) and Rule 3(ii) then, the respondents shall consider the case of the petitioner and other similarly placed persons for being appointed by transfer to the post of District Library Officer under Rule 3(iii) of Adhoc rules by duly taking into consideration the experience put up by them as Superintendents in Tamilnadu Ministerial Service of Public Library Department as the requisite qualification within the meaning of Rule 4 (b) of the Adhoc Rules and pass orders in accordance with law. In case, if they come up within the zone of consideration and found to be eligible otherwise, they shall be given promotion with effect from 30.05.2017 with all consequential benefits.”

No costs.

Consequently connected miscellaneous petition is closed.

18.12.2024

Index : Yes/No



Writ Petition No.1173 of 2018

Speaking order: Yes/No
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To

1. Government of Tamil Nadu,
Rep. by its Secretary, School Education Department,
Secretariat, Chennai-600 009.

2. The Director,
Directorate of Public Libraries,
737/1, Anna Salai, Chennai-600 002.

3. The Tamil Nadu Public Service
commission, Rep by its Secretary,
Frazer Bridge Road, V.O.C. Nagar,
Park Town, Chennai-600 003.

BATTU DEVANAND, J
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WEB COPY



Writ Petition No.1173 of 2018

Writ Petition No.1173 of 2018

18.12.2024