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W.P.No.11336 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.11336 of 2021

S.Pushpabai

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Petitioner

/vs/

1. The Additional Chief Secretary to Government,
Home (Police V) Department,
Fort St. George,
Chennai – 9.

2. The Superintendent of Police,
IPREC, Chennai – 8.

3. The Additional Director General of Police (Crime),
Chennai – 8.

4. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 4.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records of the first respondent in connection with the impugned order passed by him in G.O.3(D) No.02 Home (Pol.V) Dept dt 21.01.2020 and Letter



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No.48232/Pol.V/2019/-6 dated 04.02.2021 and the consequential order passed by the second respondent in Rc.No.A1/3250/2018, C.O.No.146/2020 dated 21.09.2020 and by the third respondent in Na.Ka.No.B1/0713/2021 dated 12.02.2021 and quash the same and direct the respondents to declare the probation of the petitioner with effect from 25.03.2011 and further direct the respondents to sanction selection grade and yearly increments due to the petitioner from the year 2009 onwards and grant such other further relief.

For Petitioner ... Mr.K.Venkataramani
Senior Counsel
for Mr.M.Muthappan

For Respondents ... Mr.K.U.Ravikumaran
Government Advocate for R1 to R4

ORDER

The petitioner has filed this writ petition challenging the orders passed by the first respondent in G.O.3(D) No.02 Home (Pol.V) Department, dated 21.01.2020 and Letter No.48232/Pol.V/2019/-6 dated 04.02.2021 and the consequential order passed by the second respondent in Rc.No.A1/3250/2018, C.O.No.146/2020 dated 21.09.2020 and by the



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third respondent in Na.Ka.No.B1/0713/2021 dated 12.02.2021 and to direct the respondents to declare the probation of the petitioner with effect from 25.03.2011 and also to sanction selection grade and yearly increments due to the petitioner from the year 2009 onwards.

2. The petitioner got appointed as “Typist” on compassionate ground on 17.03.2019 and got her services regularized by the orders of the Government in G.O.(4D) No.16 Home (Pol.15) dated 16.02.2012. Her probation was declared on 21.05.2012. Subsequently the petitioner had passed the test in “Computer on Office Automation” in the year 2019. So she gave a request to the respondents to make entries in her Service Register in respect of her qualification in “Computer on Office Automation”. At that point of time the third respondent has passed an order dated 13.05.2019 by cancelling the order of declaration of petitioner's probation by stating the reason that as per the Government Order in G.O.Ms.43 P&AR(S) dated 17.04.2009, all those who have been appointed in the post of “Typist” and “Steno-Typist” should have passed the certificate course in “Computer on Office Automation”. Subsequently, the



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first respondent has passed an another order dated 21.01.2020 in G.O.(3D)

No.02 dated 21.01.2020 declaring the petitioner's probation after she passed the test in "Computer on Office Automation". In pursuant to the order dated 21.01.2020, the pay of the petitioner was also revised and an order has been issued for recovery of a sum of Rs.5,26,370/- by stating that it was the excess salary paid to the petitioner before declaring her probation.

3. Mr.K.Venkataramani, the learned Senior Counsel for the petitioner, submitted that the appointment order of the petitioner does not state anything about the pass in "Computer on Office Automation" test as a pre-qualification for declaring her probation; the petitioner did not make any misrepresentation in order to get her probation declared and hence the orders cancelling her earlier declaration of probation and the order declaring her probation with effect from a later date and the order of recovery by re-fixing the petitioner's scale of pay are liable to be set aside.

4. Mr.K.U.Ravikumaran, the learned Government Advocate,



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submitted that for a person to get appointed as “Typist” or “Steno-Typist” a pass in Computer on Office Automation is a must in order to get their probation declared and hence the impugned orders have been passed rightly.

5. It is not the submission of the respondents that in the appointment order of the petitioner itself a condition has been included that the petitioner should pass the test in “Computer on Office Automation” in order to get her probation declared. It is obviously because at the time of issuing appointment order of the petitioner dated 17.03.2009, the Government Order mandating the pass in 'Computer on Office Automation' has not come into force. Thereafter also the petitioner was not given with any notice stating that she has to get herself qualified in 'Computer on Office Automation' in order to get her probation declared. By overlooking or superceding the Government Order which mandates a pass in 'Computer on Office Automation', the petitioner's probation was also declared on her completion of her two years service and proceedings have been issued in this regard on 25.03.2011.



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6. It appears that the petitioner with abundant caution had qualified herself in 'Computer in Office Automation' also and requested the respondents to make entries of her qualification in her Service Register. Only at that point of time, the second respondent has issued the order dated 13.05.2019 by cancelling her order of declaration of probation. The respondents should not have cancelled the probation without even putting the petitioner on notice.

7. There is no misrepresentation on the part of the petitioner to get an order of declaration of probation on 25.03.2011. The petitioner was not insisted to complete 'Computer in Office Automation' within a period of two years of her probation period. Even at the time of cancelling the probation order, the petitioner was qualified in 'Computer in Office Automation'. Even by any mistake, the petitioner's probation was declared earlier, there is no necessity to cancel her probation subsequently, because⁰¹ the petitioner had acquired the necessary qualification on the date of the impugned order dated 13.05.2019 and in fact the very request of the petitioner was to enter



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that qualification in her Service Records.

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8. Had it been the mistake on the part of the petitioner by concealing the fact that she has not passed the 'Computer in Office Automation', the matter could have been looked at a different angle. But it is a purely an indifference on the part of the respondents that they did not mind the petitioner to have a pass in 'Computer in Office Automation' test before issuing declaration order on 25.03.2011. Hence, there is no justification for revoking her probation on 13.05.2019 and thereafter to issue a fresh order dated on 21.01.2020 by declaring her probation with effect from a later date. Since both the orders have been passed without giving any opportunity to the petitioner but adverse to her interest, I feel the same are liable to be quashed.

9. So far as the pay fixation and recovery are concerned, they are consequential to the earlier orders dated 13.05.2019 and 21.01.2020. By setting aside these orders, the earlier order declaring the probation of the petitioner dated 25.03.2011 gets restored. In such case, the necessity to re-



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fix the petitioner's scale of pay and to recover any amount as excess payment will not arise. So the order dated 21.09.2020 which refixed the pay scale of the petitioner along with an order for recovery is also liable to be quashed.

10. In the result, the Writ Petition is allowed and the order passed by the third respondent in Na.Ka.No.A1/3250/2018 dated 13.05.2019, the order passed by the first respondent in G.O.3(D) No.02 Home (Pol.V) Department, dated 21.01.2020 and Letter No.48232/Pol.V/2019/-6 dated 04.02.2021, the consequential order passed by the second respondent in Rc.No.A1/3250/2018, C.O.No.146/2020 dated 21.09.2020 and the order passed by the third respondent in Na.Ka.No.B1/0713/2021 dated 12.02.2021, are hereby quashed and the respondents are directed to declare the probation of the petitioner with effect from 25.03.2011 and also to sanction selection grade and yearly increments due to the petitioner from the year 2009 and further to make due entries about the pass in "Computer on Office Automation" in the Service Records after verifying the certificates, if any and complete all the above exercises and pass necessary



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orders within a period of four weeks from the date of receipt of a copy of

this order. No costs.

01.03.2024

Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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R.N.MANJULA ,J.

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To:

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