



W.P.No.14932 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.14932 of 2024

L. Solomon

... Petitioner

Versus

1. The State of Tamil Nadu
Rep. by its Principal Secretary to Government
Adi Dravidar and Tribal Welfare Department,
Fort St.George, Secretariat,
Chennai - 600 009.

2. The Director
Adi Dravidar Welfare Department,
Chepauk, Chennai 600 005.

3. The Head Master,
Government Adi Dravidar Welfare
Higher Secondary School,
Ma.Melavanniyur,
Kattukannarkovil Taluk,
Cuddalore District.

Respondents

...



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus directing the respondents to pass orders for sanctioning selection grade and special grade to the petitioner in the post of Junior Assistant on completion of 10 years and 20 years of service respectively from the date of appointment on 18.08.2000 and to grant fixation of pay in the post of Assistant with effect from the date of promotion on 01.02.2021 with all consequential and other attendant benefits based on the proposal forwarded by the 3rd respondent in Na.Ka.No.80/2020 dated 24.08.2020 with the time frame fixed by this Court.

For Petitioner : Ms.M.Kaviya

For Respondents : Mr.Stalin Abimanyu
Addl. Government Pleader for R1 & R2

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents to pass orders for sanctioning selection grade and special grade to the petitioner in the post of Junior Assistant on completion of 10 years and 20 years of service respectively from the date of appointment



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on 18.08.2000 and to grant fixation of pay in the post of Assistant with effect from the date of promotion on 01.02.2021 with all consequential and other attendant benefits based on the proposal forwarded by the 3rd respondent in Na.Ka.No.80/2020 dated 24.08.2020.

2. Since the facts of the case is covered by a similar order passed by this Court in W.P.No.13563 of 2022 the matter is taken up for final disposal. the matter relates to declaration of probation and further declaration of special grade/selection grade in respect of the petitioner. The petitioner was appointed as Junior Assistant on compassionate basis. Since in respect of the persons who are appointed on compassionate basis, the Government has to issue a formal approval of regularisation, unlike the other Junior Assistants who are appointed by way of direct recruitment, the petitioner was not sent for Bhavani Sagar training and not permitted to take the Departmental examination within the period of probation as in the case of the other persons. As a consequence there of, the petitioner's probation was belatedly declared only after the order of regularisation is belatedly passed by the



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Government and thereafter the petitioner is deputed for training and thereafter the departmental examination was passed. This Court had an occasion to consider the same in detail in the case of ***B. Ilamparithi Vs State of Tamil Nadu*** in W.P.No.13563 of 2022 and it is relevant to extract the relevant paragraph which reads thus:-

9. It can be seen that the petitioner is recruited and is working as a Junior Assistant. The same comes under the Tamil Nadu Ministerial Service and the relevant rules applicable are Tamil Nadu Ministerial Service Rules. Rule 32 of the said rules mandates that any person recruited to the post shall be placed on probation for two years. Rule 34 of the said Rules mandates that persons appointed to the services shall clear the examination or should undergo the courses as mentioned in Annexure V. Under Annexure - Vm, under Entry No.8, Junior Assistants, appointed by way of direct recruitment on or after 03.07.1974 are required to undergo the foundational training for two months within the period prescribed for probation. The Rules further provide special provisions for the candidates who came out successful in special qualifying posts as well as the candidates who are regularised in services under G.O.Ms.No.996, dated 22.09.1984. There is no special provision as regards the candidates who are appointed on a compassionate basis. As such, the candidates appointed on a compassionate basis have to be considered as appointed under direct recruitment only.

10. When the petitioner has been appointed on a compassionate basis, there is no requirement that he should be deputed to the foundational



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training only after the acceptance order or regularisation order is passed by the Government. When the petitioner was permitted to undergo all the other tests within two years, including the departmental tests, in the absence of any rule to the contrary, there was no justification on the part of the respondents to wait for the regularisation order from the Government to depute the petitioner for foundational training. Therefore, when the respondents failed to sponsor the foundational training within the period of probation i.e., within two years, then a mistake lies on their part in deputing the petitioner only in the year 2016 and therefore the petitioner cannot be faulted for the same.....

11.... In any event, since the compassionate appointment is under the scheme, it is only a formality that the Governemnt considers the appointment in relaxation of the Rules, approves the appointment and accepts the same post facto. That cannot be a ground to keep the petitioner waiting without deputing him for the foundational training wihtin the period of probation.

12. Therefore, it can be true that between the years 2016 and 2017, it is because of the petitioner's making. But, once the petitioner has completed either in the year 2016 or 2017, the same would not make any difference as far as the date of declaration of probation is concerned. Once the respondents have not deputed the petitioner for the foundational training within the period of probation, then, declaring the probation with effect from the subsequent date is uncalled for. As a matter fact, upon query of this Court, learned Additional Government Pleader also placed the letter, dated 01.02.2004 of the Governments, where under, the Government itself has considered that because of these delays, there has been delay in deputing the candidates to the



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foundational courses and has even directed that the persons appointed on compassionate basis should be deputed immediately. Therefore, merely because such clarification was not there at the relevant point of time, the same would not be the justification for deputing the petitioner belatedly. Therefore, when the fault lies with that of the respondents in not deputing the petitioner for foundational training within the period of probation, the petitioner's probation cannot be declared with effect from the year 2017. As a matter of fact, though not exactly in the fact situation in the judgment referred to above by the learned Counsel for the petitioners this Court had granted relief to the petitioners who have various services considering the similar rules, whereby, there is a delay in deputing the candidate for the foundational training".

3. In view thereof, this writ petition is allowed on the following terms:-

(i) The respondents are directed to declare the probation of the petitioner with effect from 18.08.2002 and consequently calculate the 10 years and 20 years of service from the original date of appointment that is 08.08.2000 and accordingly confer selection grade and special grade as per the rules and notionally fix the pay of the petitioner by granting all the increments to which the petitioner would be entitled to.

(ii) As far as the actual monetary arrears are concerned, since the



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petitioner has approached this Court only now, the arrears of pay is restricted for a period from three years before the date of filing of the writ petition i.e., with effect from the month of June 2021. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order and the arrears shall be paid to the petitioner within that period.

No costs.

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Neutral Citation : yes/no
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To

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D. BHARATHA CHAKRAVARTHY, J.

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