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W.P.No.4170 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2024

CORAM

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**W.P.No. 4170 of 2016**

**&**

**W.M.P.No. 3491 of 2016**

D.Selvi Sarojini Bai

...Petitioner

Vs.

State of Tamil Nadu, Rep. by its Principal Secretary to  
Government, Personnel and Administrative Reforms (H1)  
Department, Secretariat, Chennai – 600 009.  
...Respondents

*(Cause title amended vide order dated 24.06.2024 made in  
W.M.P.No.6151 of 2016)*

**Prayer:** Writ Petition is filed under Article 226 to issue a Writ of  
Certiorarified Mandamus to call for the records relating to the letter  
No.42890/H1/2015/ P & AR (H1) Department, dated 27.11.2015  
passed by the respondent and quash the same consequently direct the  
respondent to give promotion to the petitioner par with the juniors and



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to sanction all attended benefits along with interest.

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For Petitioner : Mr. A.R.Nixon

For Respondent : Mr. V.Jeevagiridharan  
Additional Government Pleader.

### **ORDER**

The petitioner has filed the above Writ Petition seeking to quash the order passed by the respondent by order dated 27.11.2015 in letter No.42890/H1/2015/ P & AR (H1) Department and direct the respondent to give promotion to the petitioner on par with her juniors and to sanction all attendant benefits with interest.

2. The short facts necessary for the disposal of the above writ petition is herein below set out. The petitioner was appointed as a Typist on 10.02.1993 in the Rural Development Department and by order dated 25.06.1998, her services were regularised as a Typist. The petitioner would submit that she had rendered 24 years of service



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in the same post. Thereafter, on 17.06.2006 as per G.O.(4D).No.22, she was promoted as an Assistant Section Officer.

3. The petitioner would submit that she was entitled to get promotion and her name found place in the seniority list for promotion as a Section Officer. However, the petitioner was not promoted. The Government of Tamil Nadu had issued a Government Order in G.O.(Ms).No.163, Personnel and Administrative Reforms (H) Department, dated 16.12.2011, wherein the qualification that had been fixed for appointment to the post of Section Officer was a service for the period of 6 years in the category of an Assistant Section Officer and an Educational Qualification of Bachelor's degree.

4. Thereafter, by G.O.Ms.No.88 dated 15.06.2012 necessary amendment had been made to the Special Rules of the Tamil Nadu General Service in and by which the following amendment had been inserted:



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*(i) Must hold a Bachelor's Degree of any University recognized by the University Grants Commission for the purpose of its grant.*

*(ii) Must have rendered service for a period of not less than six years in the category of Assistant Section Officer in the Department of Secretariat other than Law and Finance.”*

5. Aggrieved by the same, the petitioner had filed W.P.No.27799 of 2015 on the file of this Court for declaration that the amendment dated 15.06.2012 is null and void and to direct the respondents to include the proviso protecting the interest of the petitioner exempting her from qualifying degree or to accept the degree qualifications obtained by her from the Madras University though correspondence. By order dated 04.09.2015, this Court had disposed of the Writ Petition by permitting the petitioner to make fresh representation to the competent authority for the above exemption.



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6. The petitioner in compliance with the said order had made another representation on 28.10.2015 and the respondent has now rejected the request. Challenging the same, the present Writ Petition has been filed.

7. Though counter has not been filed, the Additional Government Pleader has made his submissions.

8. Heard the learned counsels on the either side and perused the records.

9. The position as regards qualification for being promoted to the post of Section Officer prior to G.O.No.88, Personnel and Administrative Reforms (C) Department, dated 15.06.2012 was only 6 years experience as an Assistant Section Officer. It appears that by G.O.(4D).No.74 dated 31.12.2010, the Government taking note of the fact that no Assistant Section Officer had the requisite qualification



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for the post of Section officer had decided to relax Rule 3 of the Special Rules in favour of 205 Assistant Section Officers, who were otherwise qualified, by reason of the above the petitioner would also qualify.

10. Therefore, by virtue of this Government Order the petitioner had been qualified to be promoted to the post of a Section Officer since the requirement of a degree had come into effect only on 16.12.2011 whereas the petitioner had qualified and her name had been found in the seniority list for the years 2010 – 2011. The petitioner had not been included in the final list on the ground that she had obtained her degree through correspondence even prior to the issue of G.O.Ms.No.163.

11. Similar issue was before the Division Bench of this Court in a batch of Writ Appeals and Writ Petitions. The Division Bench had



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taken into account the fact that the petitioners had worked as an Assistant Section Officers in Tamil Nadu Secretariat Services and were therefore entitled to get promoted to the post of Section Officers for which crucial date was 01.06.2010. The Bench had observed that the degree qualification was only brought in by way of amendment in G.O.Ms.No.88 dated 15.06.2012 with effect from 16.12.2011. The crucial date being 01.06.2010, which is prior to the issue of the Government Order, the Division Bench had observed that the qualification that was prescribed on the crucial date alone should be considered for promotion and proceeded to dismiss the writ appeals filed by the State and allowed the writ petitions filed by the petitioners. The factual matrix of the instant case squarely falls within the parameters of the above Judgement.

12. In the light of the above, this Writ Petition has to be necessarily allowed and is accordingly allowed. Consequently, the connected miscellaneous petition is closed. No costs.



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Index : Yes/No  
Internet : Yes/No  
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To

Principal Secretary to  
Government, Personnel and Administrative Reforms (H1)  
Department, Secretariat, Chennai – 600 009.





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**P.T. ASHA, J,**

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