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W.P.Nos.17699 of 2014 & 7894 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.Nos.17699 of 2014 & 7894 of 2016

and

M.P.Nos.1, 2 & 3 of 2014

and

W.M.P.Nos.4459, 7329, 7031, 7032 & 7033 of 2016

**[W.P.No.17699 of 2014 and
M.P.Nos.1, 2 & 3 of 2014 and
W.M.P.Nos.4459 & 7329 of 2016]**

A.Mohideen Basha

... Petitioner

Vs.

1. The Secretary,
Personnel and Administrative Reforms Department,
Secretariat, St. George Fort, Chennai-9.

2. S. Srinivas
(R-2 is impleaded as per Order Dated:03/02/2016 by M.M.S.,J. in
MP.1/2015 in WP.17699/2014.)

3. D. Mahalakshmi,
(R-3 is impleaded as per Order Dated:19/02/2016 by M.M.S.,J. in
WMP.4862/2014 in WP.17699/2014.)

... Respondents



W.P.Nos.17699 of 2014 & 7894 of 2016

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for all relevant records relating to the impugned Government Orders in G.O. (4D) No.30 P&AR (U1) Department dated 19.5.2014, G.O. (4D) No.31 P&AR (U1) Department dated 19.5.2014, G.O. (4D) No.32 P&AR (U1) Department dated 19.5.2014, G.O. (4D) No.33 P&AR (U1) Department dated 19.5.2014, issued by the respondent Government herein, in so far as it refuses to Regularize the petitioner herein on the basis of Education Qualification, which was Regularised and accepted in the Stage of Assistant after declaring the Probation, to quash the same as arbitrary, improper, illegal, unconstitutional and contrary to the basic principle of Service Rules, thereby directing the respondent herein to Regularise the service of the petitioner in the post of Assistant Section Officer in the Secretariat Service and consequently to provide with all service and monetary benefits.

For Petitioners : Mr.P.K.Rajesh Praveen Kumar

For Respondents : Mr.R.Neelakandan,
Additional Advocate General(for R1);

: Mr.S.Neduchezhiyan (for R2);

: Mr.S.Elamurugan (for R3).

**[W.P.No.7894 of 2016 and
W.M.P.Nos.7031, 7032 & 7033 of 2016]**

1. L.Rajendiran



W.P.Nos.17699 of 2014 & 7894 of 2016

2. W.Abdul Gani

3. B.Kausalya

4. H.Ramesh

5. S.T.Panneer Selvam

6. E.Immaanuvvel

7. L.Udayaban Singh

8. N.Jaffer Khan

9. K.Manoharan

10. S.Stanley Babu

... Petitioners

Vs.

The Secretary,
Personnel and administrative Reforms Department,
Secretariat, St. George Fort, Chennai-9.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for all relevant records relating to the impugned Government Orders in G.O.(4D) No.30 P & AR (U1) Department dated 19.5.2014, G.O.(4D) No.31 P & AR (U1) Department dated 19.5.2014, G.O.(4D) No.32 P & AR (U1) Department dated 19.5.2014 and G.O.(4D) No.33 P & AR (U1) Department dated 19.5.2014, issued by the respondent Government herein, in so far as it refuses to Regularise the petitioner herein on the basis of Education Qualification, which was Regularised and accepted in the stage of Assistant



W.P.Nos.17699 of 2014 & 7894 of 2016

after declaring the Probation, to quash the same as arbitrary, improper, illegal, unconstitutional and contrary to the basic principal of Service Rules thereby directing the respondent herein to regularise the service of the petitioners in the post of Assistant Section Officer in the Secretariat Service and consequently to provide with all service and monetary benefits.

For Petitioners : Mr.P.K.Rajesh Praveen Kumar

For Respondents : Mr.R.Neelakandan,
Additional Advocate General.

COMMON ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

The writs on hand have been instituted questioning the validity of the regular panel of Assistants for promotion to the post of Assistant Section Officer in the Secretariat dated 19.05.2014.

2. The writ petitioners passed SSLC and entered secretariat service as Office Assistants in the year 1996 and 1985 respectively. Admittedly, both the writ petitioners have acquired degree qualification through open university scheme. Based on the open university degree, both the petitioners were promoted to the post of Assistant, and thereafter they were temporarily promoted to the post of Assistant Section Officer but their services are not



W.P.Nos.17699 of 2014 & 7894 of 2016

being regularized on the said post despite they have completed their probation in the said post of Assistant Section Officer. The next avenue for promotion is to the post of Assistant Section Officer. The petitioners were promoted temporarily to the post of Assistant Section Officer in the year 2008 under Rule 39(a)(i) of Tamil Nadu State and Subordinate Services Rules. The open university degree acquired by the petitioners during the relevant point of time was considered for appointment to the post of Assistant.

3. The regular penal for promotion to the post of Assistant Section Officer was prepared by the Secretariat in the year 2013. The approved penal was published in G.O. (4D) No.13, Personnel and Administrative Reforms Department dated 19.05.2014. Since the names of the petitioners were not considered for promotion to the post of Assistant Section Officer, they have submitted a representation which was not considered. Thus, the present writ petitions came to be instituted.

4. The learned counsel for the writ petitioners Mr.P.K.Rajesh Praveen Kumar would submit that the rule applicable for the post of Assistant Section



W.P.Nos.17699 of 2014 & 7894 of 2016

Officer would indicate that minimum general educational qualifications prescribed in Schedule III to the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, or its equivalent qualifications would be sufficient for promotion or for appointment by transfer of service. Rule 14, Category 1(a) do not stipulate degree as an essential qualification. Therefore, the panel published by the Secretariat is infirm and not in consonance with the rules in force. The petitioners were already promoted to the post of Assistant by way of transfer of service based on their degree qualification and therefore, taking note of the said fact, further promotions are to be considered to the post of Assistant Section Officer.

5. Mr.R.Nilakandan, learned Additional Advocate General would oppose by stating that the rule was misinterpreted by the petitioners. The essential qualifications prescribed for the post of Assistant itself is “Degree” in any subject. As per the rules, 20th vacancy alone is to be filled up from amongst the eligible non-graduate candidates. The case of the petitioners were considered for promotion to the post of Assistant only by virtue of the open university degree possessed by them. Therefore, the petitioners are falling under the category of graduate Assistants. Therefore, they cannot seek



W.P.Nos.17699 of 2014 & 7894 of 2016

further promotion to the post of Assistant under the Quota allotted to non-graduate Assistants under 20th vacancy.

6. Admittedly, the petitioners were appointed to the post of Assistant based on the open university degree obtained by them. It is not in dispute that the open university degrees are held invalid by the Hon'ble Supreme Court of India in the *Annamalai University v. Secretary to Govt., Information & Tourism Dept.* ((2009) 4 SCC 590). This Court also considered the validity of the open university degrees, not obtained through regular pattern of education, in the case of *M.Mani vs. The State Of Tamil Nadu & Others*, reported in 2018 4MLJ 108. Therefore, for all purposes, the petitioners are to be considered for promotion only under the category of graduate Assistants. Since the degree possessed by the petitioners are declared as invalid by the Hon'ble Supreme Court of India, their services are protected in the post in which they are working. As far as further promotions are concerned, they became ineligible. The open university degrees cannot be considered as valid degree for grant of promotion to the higher posts. Admittedly, panel for promotion to the post of Assistant Section Officer was published in the year 2014. At the time of publication of panel, the degree



W.P.Nos.17699 of 2014 & 7894 of 2016

possessed by the petitioners were held invalid. Temporary promotion, originally granted, would not confer any right to seek regular promotion, which is to be made in accordance with the service rules in force. The Government of Tamil Nadu implemented orders of the Hon'ble Supreme Court of India and issued G.O.Ms.No.107.

7. That being the factum, we do not find any infirmity in respect of the decision taken by the Government excluding the names of the writ petitioners from the regular panel published for promotion to the post of Assistant Section Officer. Thus, the petitioners have not established any acceptable ground for considering the relief as such sought for in the writ petitions.

8. Accordingly, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.J.,)

(C.K.J.,)

24.06.2024

Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



W.P.Nos.17699 of 2014 & 7894 of 2016

To
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1. The Secretary,
Personnel and Administrative Reforms Department,
Secretariat, St. George Fort, Chennai-9.



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W.P.Nos.17699 of 2014 & 7894 of 2016

S.M.SUBRAMANIAM, J.

and

C.KUMARAPPAN, J.

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W.P.Nos.17699 of 2014 & 7894 of 2016

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