



WEB COPY



W.P.Nos.18049 & 18311 of 2014

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.18049 & 18311 of 2014

and

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

and

W.M.P.Nos.7330 & 7331 of 2016

[W.P.No.18049 of 2014

and

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

A.Jamshed Basha

... Petitioner

Vs.

1. The Principal Secretary to Government,
State of Tamil Nadu,
Personnel Administrative Reforms (U) Department,
Secretariat, Chennai-9.

2. The Principal Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development (OPI) Department,
Secretariat, 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 the



W.P.Nos.18049 & 18311 of 2014

records relating to the 1st respondent proceedings in G.O.(4D) No.31 Personnel Administrative Reforms (U) Department dated 19.5.2014 and quash the same as well as the petitioners are constrained and include the petitioners in the regular panel of Assistant Section fit for inclusion in the regular panel Assistant Section Officer for the year 2007-2008 in the appropriate space.

For Petitioner : Mr.M.Muthappan
For Respondents : Mr.R.Neelakandan,
Additional Advocate General
(for R1 & R2).

**[W.P.No.18311 of 2014 and
W.M.P.Nos.7330 & 7331 of 2016 and
M.P.Nos.1, 2 & 3 of 2014]**

1. A.Jahangir Basha

2. M.Javid Hussain

... Petitioners

Vs.

1. The Principal Secretary to Government,
State of Tamilnadu,
Personnel Administrative Reforms (U) Department,
Secretariat, Chennai-600 009.

2. The Principal Secretary to Government,
State of Tamilnadu,
Municipal Administration Water Supply (OPI) Department,
Secretariat, Chennai-600 009.



W.P.Nos.18049 & 18311 of 2014

3. The Principal Secretary to Government,
State of Tamil Nadu Housing &
Urban Development (OPI) Department,
Secretariat, Chennai-600 009.

4. S.Srinivas,

5. D. Mahalakshmi

... Respondents

[R-4 and R-5 are impleaded as per Orders Dated:19/02/2016 by M.M.S.,J. in MP.1/2015 and in WMP.4719/2016 in WP.18311/2014.]

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the 1st respondent proceedings in G.O.(4D) No.30 Personnel Administrative Reforms (U1) Department dated 19.5.2014 and quash the same as well as the petitioners are constrained and include the petitioners in the regular panel of Assistant fit for inclusion in the regular panel Assistant Section Officer for the year 2007-08 in the appropriate space.

For Petitioners : Mr.M.Muthappan

For Respondents : Mr.R.Neelakandan,
Additional Advocate General
(for R1 to R3);

: Mr.S.Neduchezhiyan (for R4);

: Mr.S.Elamurugan (for R5).



W.P.Nos.18049 & 18311 of 2014

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 1994 and 1993 respectively. Admittedly, the writ petitioners have acquired degree qualifications through open university scheme. Based on the open university degree, the petitioners were appointed by way of transfer of service to the post of Assistant. Their services, in the post of Assistant, were regularized in the year 2006 with effect from their respective date of initial appointment. 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



W.P.Nos.18049 & 18311 of 2014

considered for appointment to the post of Assistant.

WEB COPY

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.M.Muthappan would submit that the rule applicable for the post of Assistant Section 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



W.P.Nos.18049 & 18311 of 2014

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 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 &*



W.P.Nos.18049 & 18311 of 2014

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 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



W.P.Nos.18049 & 18311 of 2014

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.18049 & 18311 of 2014

To
WEB COPY

1. The Principal Secretary to Government,
State of Tamilnadu,
Personnel Administrative Reforms (U) Department,
Secretariat, Chennai-600 009.
2. The Principal Secretary to Government,
State of Tamilnadu,
Municipal Administration Water Supply (OPI) Department,
Secretariat, Chennai-600 009.
3. The Principal Secretary to Government,
State of Tamil Nadu Housing &
Urban Development (OPI) Department,
Secretariat, Chennai-600 009.



WEB COPY



W.P.Nos.18049 & 18311 of 2014

S.M.SUBRAMANIAM, J.

and

C.KUMARAPPAN, J.

(sha)

W.P.Nos.18049 & 18311 of 2014

24.06.2024