



W.P. Nos.33676 of 2017 & 10039 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.07.2024

Pronounced on : 30.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.33676 of 2017 & 10039 of 2021

and

W.M.P.Nos.37270 & 37271 of 2017 & 10670 of 2021

W.P.No.33676 of 2017

1.P.Venkatachalam

2.A.Premnayagam

... Petitioners

Vs.

1.The State of Tamil Nadu rep. by its
Principal Secretary to Government,
Department of School Education,
Secretariat,
Chennai – 600 009.

2.The Director
Directorate of Public Libraries
737/1, Anna Salai
Chennai – 600 002.

3.The Tamil Nadu Public Service Commission
rep. by its Secretary,
Chennai – 600 003.

4.C.Kalidoss

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5.M.Palanisamy

6.S.Yesodha

7.P.Selvarasu

8.M.Dhanalakshmi

9.M.Ramachandran

10.A.Jothimani

11.S.Jegadeesan

12.J.Karthikeyan

13.M.Karthikeyan

14.R.Kokilavani

15.D.Devaki.

16.K.Shan Basha

...Respondents

*R16 impleaded vide Court order dated 30.07.2024 made in
W.M.P.No.21827 of 2024 in W.P.No.33676 of 2017

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the relating to the impugned orders in i) G.O.Ms.No.114, ii) G.O.Ms.No.115 and iii) G.O.Ms.No.116, Scjool Education [PL-1] Department dated 30.05.2017 issued by the 1st respondent, quash the same and consequently direct the respondents 1 and 2 to promote the petitioners to the post of the District

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Library Officers with effect from 30.05.2017 with consequential benefits, on the basis of the year wise panel prepared from the year 2011-2012.

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For Petitioner	:	Mr.N.Manokaran
For R1 & R2	:	Mr.K.H.Ravikumar
For R3	:	Ms.G.Hema
For R8	:	Mr.S.SElvathirumurugan
For R14	:	M/s.Secular S.Arunkumar
For R16	:	Mr.M.Purushothaman

W.P.No.10039 of 2021

P.Venkatachalam

... Petitioner

Vs.

1.The State of Tamil Nadu rep. by its
Principal Secretary to Government,
Department of School Education,
Secretariat,
Chennai – 600 009.

2.The Director
Directorate of Public Libraries
737/1, Anna Salai
Chennai – 600 002.

3.R.Chandrasekaran
*R3- impleaded as per order dated 30.07.2024 in WMP.No.16703/2022 in
W.P.No.10039/2021

4.S.S.Sivakumaar
*R4 impleaded as per order dated 30.07.2024 in WMP.No.15189/2022 in
W.P.No.10039/2021



W.P. Nos.33676 of 2017 & 10039 of 2021

5.K.Shan Basha

*R5 impleaded as per order dated 30.07.2024 in WMP.No.17917/2024 in
W.P.No.10039/2021

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the relating to the impugned made in Na.Ka.No.8641/A1/2019, dated 29.01.2020 passed by the 2nd respondent, quash the same and consequently direct the 1st respondent promoted the petitioner to the post of District Library Officer under the 3rd mode of recruitment, as per Rule 3(iii) r/w 4 (b) (iii) of the Adhoc Rules, by treating his supervisory experience in the post of Superintendent of the libraries.

For Petitioner : Mr.N.Manokaran

For R1 & R2 : Mr. K.H.Ravi Kumar

For R3 & R5 : Mr.M.Purushothaman

For R4 : Mr.G.Sankaran, Senior Counsel

COMMON ORDER

The issue that arise for consideration in both the writ petitions is almost one and the same and as such both the matters were heard together and are are being disposed of by this common order. The parties are referred to as per their status in W.P.No.33676 of 2017



2. The writ petition vide W.P.No.33676 of 2017 was filed by two petitioners namely, P.Venkatachalam and A.Premanayagam, challenging the orders issued by the Government approving the panel for promotion to the post of District Library Officer from the post of Librarian Grade-I and Inspector of Libraries, and the orders of promotion appointing the respondents 4 to 15 as District Library Officers and the consequential orders issued by the 2nd respondent issuing placement orders, as illegal and arbitrary and also sought for preparation of year wise panels and to promote the petitioners as District Library Officers with effect from 30.05.2017. Whereas, W.P.No.10089 of 2021 was filed by the 1st petitioner in W.P.No.33676 of 2017 questioning the proceedings dated 29.01.2020, whereby the claim of the petitioner for promotion to the post of District Library Officer was rejected on the ground that the petitioner does not possess the requisite qualification of experience in the Supervisory cadre in Libraries.

3. The 1st petitioner in W.P.No.33676 of 2017 was promoted to the post of Superintendent in the Ministerial service of Department of Library on



26.07.2006 and he acquired the Bachelor of Commerce degree in the year 2012 and Bachelor of Library Science in the month of May 2009 and again in the month of December 2013. Whereas, the 2nd petitioner was appointed as Superintendent in the Ministerial service of Department of Library on 09.06.2011 and he acquired B.A (History) in the month of May 2010 and Bachelor of Library and Information Science in the month of May 2014.

4. The two petitioners, who have been working as Superintendents are claiming for consideration of their cases for appointment by transfer to the post of District Library Officer. The post of District Library Officer is governed by Adhoc Rules relating to temporary post of District Library Officers in Education Department. The post of District Library Officer constitute a separate category in the Clause 2 of Tamil Nadu Educational Service in terms of Rules issued in G.O.Ms.No.1218, Education dated 16.07.1974 and in terms of the said Rules as amended from time to time, the method of recruitment and the qualifications prescribed for the post of District Library Officer are as under:



Method of appointment (1)	Qualifications (2)
(i) by recruitment by transfer from the post of Deputy Librarian of Connemara Public Library	(1) A degree in Arts or Science; (2) A diploma or degree in Library Science and (3) Experience for a period of not less than five years as Deputy Librarian in Connemara Public Library
(ii) by direct recruitment from Librarians Grade-I working in the Local Library Authorities.	(1) A degree in Arts or Science; (2) A diploma or degree in Library Science and (3) Experience for a period of not less than five years as Librarian Grade-I in the Local Library Authorities.
(iii) by recruitment by transfer from any other service,	(1) A degree in Arts or Science; (2) A diploma or degree in Library Science and (3) Experience for a period of not less than five years in any of the Libraries in a supervisory cadre.
(iv) by direct recruitment from the open market; provide that fifty percent of the vacancies shall be reserved to be filled up by direct recruitment from the open market:	(1) A Master's degree in Arts or Science; (2) A Master's degree in Library Science and (3) Experience for a period of not less than three years in any of the Libraries in a supervisory cadre.

The Rule 3 and 4 of the Adhoc Rules is as under:

“3. Appointments:- Appointments to the post shall be made as follows:-

(i) by recruitment by transfer from the post of Deputy



Librarian of Connemara Public Library; or

(ii) by direct recruitment from among Librarians Grade I in the Local Library Authorities; if no qualified and suitable person is available by the method in item (i) above; or

(iii) by recruitment by transfer from any other service, if no qualified and suitable person is available by the methods in items (i) and (ii) above; or

(iv) by direct recruitment from the open market, if no qualified and suitable person is available by the methods in items (i), (ii) and (iii) above.

4(b):

<i>Method of appointment (1)</i>	<i>Qualifications (2)</i>
<i>(i) by recruitment by transfer from the post of Deputy Librarian of Connemara Public Library.</i>	<i>(1) A degree in Arts or Science; (2) A diploma or degree in Library Science and (3) Experience for a period of not less than five years as Deputy Librarian in Connemara Public Library,</i>
<i>(ii) By direct recruitment from the Librarians Grade I</i>	<i>(1) A degree in Arts or Science;</i>



<i>Method of appointment (1)</i>	<i>Qualifications (2)</i>
<i>working in the Local Library Authorities.</i>	<i>(2) A diploma or degree in Library Science and (3) Experience for a period of not less than five years as Librarian Grade-I in the Local Library Authorities.</i>
<i>(iii) By recruitment by transfer from any other service</i>	<i>(1) A degree in Arts or Science; (2) A diploma or degree in Library Science; and (3) Experience for a period of not less than five years in any of the Libraries in a supervisory cadre.</i>
<i>(iv) By direct recruitment from the Open market</i>	<i>(1) A Master's degree in Arts or Science; (2) A Master's degree in Library Science; and (3) Experience for a period of not less than three years in any of the Libraries in a supervisory cadre.</i>



5. The petitioners herein, are the persons claiming for consideration of their cases for appointment by transfer under Rule 3(iii) of Adhoc Rules and whereas, the respondents 4 to 14 are the persons who were appointed to the post of District Library Officer under Rule 3 (ii) of the Adhoc Rules. Though it is contended in the affidavit filed in support of the writ petitions, stating that the promotions that are effected to the post of District Library Officer during the year 2012 through G.O.Ms.No.110, School Education (K2), Department 07.05.2012 by relaxing the qualification in exercise of power under Rule 48 of the Tamilnadu State and Subordinate Service Rules, there is no specific challenge to the said promotions and therefore, the validity of said promotions can not be gone into in these writ petitions.

6. Through the impugned Government orders, the cases of the respondents 4 to 15 were considered for promotion to the post of District Library Officer during the panel year 2016-2017 as against the vacancies that arose during the panel years 2012-2013, 2013-2014, 2014-2015 and 2015-2016 on the ground that the panel for the said years for promotion to the post of District Library Officer was not drawn because of the Court cases. All the



21 vacancies that arose during the panel years 2012-2013 to 2015-2016 were taken up for consideration during the panel year 2016-2017 and the cases of the respondents 4 to 15, and they were accordingly promoted to the post of District Library Officer on temporary basis carrying forward the said vacancies, of the previous panel years.

7. It is the case of the petitioners that in terms of Rule 3 of the Adhoc Rules, in case, if the qualified candidates falling under Rule 3(i) and Rule 3(ii) are not available, the respondents are under obligation to resort to method of recruitment provided under Rule 3 (iii) of the Adhoc Rules. But in the instant case, the respondents having omitted to prepare panels during the years 2012-2013 to 2015-2016 in order to allow the respondents 4 to 15, become eligible by acquiring requisite experience of five years in the post of Grade-I Librarian/Inspector of Libraries and taken up their cases for consideration by carrying forward all the vacancies and filled up during the panel year 2016-2017. Thus, it is contended that treating all the said 12 vacancies ear marked for appointment by transfer have arisen during the said panel year, is contrary to the settled legal position and the General Rules.



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8. Thus, it is the contention of the petitioners that, none of the respondents 4 to 15 are eligible for promotion to the post of District Library Officer during the panel years 2012-2013 to 2015-2016, and there is no other candidate available having all the requisite qualifications during the said panel years falling under Rule 3(i) and 3(ii) of the Adhoc Rules and it is only, the petitioners who are qualified for being considered for appointment by transfer under Rule 3(iii) of the Adhoc Rules. It is further contended that even, while taking up filling up of the post that arose during the panel years 2012-2013 to 2015-2016, the respondents ought to have prepared year wise panels instead of carrying forward all the vacancies to the panel year 2016-2017 and thereby, depriving the petitioners from consideration of their cases for appointment by transfer to the post of District Library Officer.

9. The petitioners are claiming to be the persons working in a Supervisory cadre in Library in the Ministerial service of Library department and possessing all the requisite qualifications prescribed under Rule 4(b) read with Rule 3(iii) of the Adhoc Rules. Thus, the petitioners have contested the



manner, in which the panel for the year 2016-2017 was prepared in respect of the vacancies that arose during the panel years 2012-2013 to 2015-2016 and also in considering the cases of the respondents 4 to 15 who are not even qualified by the date on which the vacancies arose during the panel years 2012-2013 to 2015-2016, or on the crucial date of the respective panel years.

10. The official respondents, having filed counter, have admitted about the carrying forward of the vacancies that arose during the panel years 2012-2013 to 2015-2016 and also contended that the petitioners who are working as Superintendent in the Ministerial service of the department of Library are not eligible for appointment by transfer in terms of Rule 4(b) of the Adhoc Rules as the said experience as Superintendent is not in the Library but in the Ministerial Service of the office attached to the Library and therefore, they cannot be treated as the persons possessing the qualification criteria prescribed under Rule 4(b).

11. The respondents 4 to 13 and 15, have not filed any counter affidavit. The respondent No.14 filed counter affidavit contending that she



was appointed strictly in accordance with law and she possessed all the qualifications as on the date of her promotion as District Library Officer.

Though respondent No.16 came on record resisting the claim of the petitioners in both the writ petitions, he was promoted to the post of Grade-I Librarian only in the year 2017 and hence, he has neither qualified nor eligible for being considered for promotion to the post in which the respondents 4 to 15 were promoted. However, he contended that the petitioners herein are not qualified for want of possessing requisite qualification as required under Rule 4 (b) of the Adhoc Rules.

12. Heard learned counsel on either side and perused the entire materials available on record.

13. Before dealing with the aspect of preparation of panels and the issuance of the impugned orders, it is necessary to examine whether the experience of the petitioners who are working as Superintendents in the Ministerial service of the department of Library can be construed, as the experience within the meaning of Rule 4(b) of the Adhoc Rules or not, is



required to be considered. It is only in case, if this Court comes to the conclusion that the experience put up by the petitioners is the experience within the meaning of Rule 4(b) of the Adhoc Rules, then only the other aspects can be gone into. The said issue, in the considered view of this Court, does not require an elaborate consideration for the simple reason that, the Government itself has an occasion to consider the said aspect while proposing an amendment for amending Adhoc Rules governing the post of District Library Officers in G.O.Ms.No.823 School Education, Science and Technology (K2) Department dated 27.10.1995. In paragraph No.3 of the said Government order, the post of Superintendents in Tamil Nadu Ministerial Service working in Public Libraries Department were treated as one of the feeder categories and the relevant paragraph No.3 reads as under:

“3.As per the existing Rules, feeder category to the post of District Library Officer is Librarian Grade I/Inspector of Libraries with 5 years experience as such. With reference to Rule 3 (iii) of the Adhoc Rules for the post of District Library Officer, the Superintendents in Tamil Nadu Ministerial Services working in Public Libraries Department can also be considered for the post of District Library Officer, As such, the Government examined the



recommendations of the Director of Public Libraries in para 2above. They accordingly approve the proposal to fix up a ratio of 2:1 among Librarians, Grade I and Ministerial Superintendents in Public Libraries Department for filling up the post of District Library Officer by recruitment by transfer of service.”

14. From the above, it is evident that the post of Superintendents working in Tamil Nadu Ministerial Service in Public Libraries Department was construed as feeder category under Rule 3(iii) of the Adhoc Rules. However, a challenge that was made to the said Government Order in G.O.Ms.No.823 dated 27.10.1995 was successful because the said G.O was sought to be given effect without amending the relevant Rules issued under the Article 309 of the Constitution of India. But the intention of the Government to treat the post of Superintendent in Tamil Nadu Ministerial Service in Public Libraries Department as one of the feeder categories is very much evident from the said Government order. Therefore, once the Superintendents working in Ministerial service of Library department are treated as feeder category for the post of District Library Officer, the experience put up by them cannot be said to be not falling under Rule



4(b)(iii) of Adhoc Rules. It is also necessary to note, that the Government itself on an earlier occasion appointed one of the Superintendent similarly placed like the petitioners by name Mr.V.Kandasamy in G.O.(1D)No.210, School Education (K2) Department, dated 29.06.2000.

15. Hence, the action of the official respondents in treating the petitioners, who are working as Superintendents in Tamil Nadu Ministerial Service of the Public Libraries Department as not the Superintendents having experience in Libraries, cannot be accepted. Such a reason is invented by the 2nd respondent, ignoring the orders issued by the Government as noted above, only to deny the claim of the petitioners for being considered for appointment by transfer for the post of District Library Officer. It is only on the ground that the experience put up by the petitioner in W.P.No.10039 of 2021, his claim was refused to be considered for appointment by transfer by passing the impugned order in the said writ petition. Therefore, the said impugned order is liable to be set aside.



16. Then, the manner in which the panel was approved for the year 2016-2017 and the validity of the appointments of the respondents 4 to 15 as District Library Officer, through impugned Government Orders is to be examined. The preparation of panel, the crucial date for preparation of panel, the operation of the panel, expiry of the panel, lapse of the panel prepared etc. are all the matters governed by the General Rules. The panel is required to be prepared for filling up the existing vacancies, anticipated vacancies during the panel year by considering all the eligible candidates as on the crucial date. The crucial date for the post of District Library Officer is 1st March of the relevant panel year. The 12 vacancies that were filled up during the panel year 2016-2017 are admittedly not the vacancies that arose during the panel year but they arose during the panel years 2012-2013 to 2015-2016. The first proviso to Rule 4 of Tamil Nadu State and Subordinate Service Rules (General Rules) deals with preparation of panel which reads as under:

“Provided that the list of approved candidates for appointment by promotion and by recruitment by transfer to all the categories of posts in the Tamil Nadu State and Subordinate Services shall be prepared annually against the estimated number of vacancies expected to arise during the course of a year. The estimate of vacancies shall be



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prepared taking into account the total number of permanent posts in a category, the number of temporary posts in existence, the anticipated sanction of new posts in the next year, the requirement post of leave reserves, the anticipated vacancies due to retirement and promotion, etc. in the course of the year and the number of candidates already in position in that category. The list of approved candidates so prepared, shall be in force for a period of one year only and shall lapse at the end of the year. The candidates whose names were included in the previous list but were not appointed, shall be considered, if eligible, for inclusion in the list for the next year, along with their seniors, if any, whose names were not include in the previous list either because they were found not suitable or because they were not technically qualified when the previous list was drawn up:”

17. From the above it is clear that, even in case of non-preparation of a panel in a particular panel year, for whatever be the reason, when such vacancies are sought to be filled in, the panel for filling up such post is required to be prepared with a reference to the crucial date of the relevant panel year and by considering all the candidates who are eligible as on the



crucial date and then, prepare a panel and effect promotions. But in the instant case, admittedly such a procedure was not followed and all the vacancies were carried forward to the panel year 2016-2017 without there being any legal basis for such carrying forward, the panel was approved and appointments by transfer were made from the categories falling under Rule 3(ii) of the Adhoc Rules. Such a procedure is contrary to the settled legal position.

18. The Hon'ble Apex Court, has an occasion to consider the aspect of preparation of panel, in the case of ***Union of India and others Vs N.R.Banerjee and others, (1997) 9 SCC 287***, wherein it was held as under:

“6. DPCs should be convened every year, if necessary, on a fixed date, i.e. 1st of April or May. In the middle of the para, by way of amendment brought on 13-5-1995, it postulates that very often action for holding DPC meeting is initiated after the vacancy has arisen. This results in undue delay in filling up of vacancies and causes dissatisfaction among those who are eligible for promotion. It may be indicated that regular meeting of DPC should be held every year for each category of posts so that approved select panel is available in advance



for making promotions against vacancies arising every year. Under para 3.2, the requirement of convening annual meetings of the DPC should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question. It would, thus, be seen that DPCs are required to sit every year, regularly on or before 1st April or 1st May of the year to fill up the vacancies likely to arise in the year for being filled up. The required material should be collected in advance and merit list finalised by the appointing authorities and placed before the DPCs for consideration. This requirement can be dispensed with only after a certificate is issued by the appointing authority that there are no vacancies to be filled by promotion, or that no officers are due for confirmation, during the year in question.

12. Considered from that perspective, the question arises whether the view taken by the Tribunal is justified in law. It is true that filling up of the posts are for clear or anticipated vacancies arising in the year. It is settled law that mere inclusion of one's name in the list does not confer any right on him/her to appointment. It is not incumbent that all posts may be filled up. But the authority must act reasonably, fairly and in public interest and omission



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thereof should not be arbitrary. In Shankarsan Dash v. Union of India [(1991) 3 SCC 47 : 1991 SCC (L&S) 800 : (1991) 17 ATC 95 : (1991) 2 SCR 567] the Constitution Bench had held that inclusion of the name of a candidate in a merit list does not confer any right to be selected unless the relevant recruitment rules so indicate. The State is under no legal duty to fill up all or any of the vacancies even though the State acts in an arbitrary manner. In Babita Prasad v. State of Bihar [1993 Supp (3) SCC 268 : 1993 SCC (L&S) 1076 : (1993) 25 ATC 598] it was held that mere inclusion of one's name in the panel does not confer on him/her any indefeasible right to appointment. It was further held that the purpose of making a panel was to finalise the list of eligible candidates for appointment. The preparation of the panel should be to the extent of the notified or anticipated vacancies. Unduly wrong panel should not be operated. In Union Territory of Chandigarh v. Dilbagh Singh [(1993) 1 SCC 154 : 1993 SCC (L&S) 144 : (1993) 23 ATC 431] it was held that the mere fact that a candidate's name finds a place in the select list as a selected candidate for appointment to a post, does not confer on him/her an indefeasible right to be appointed in such post in the absence of any specific rule entitling him to such appointment. In State of Bihar v. Secretariat Asstt.



Successful Examinees Union 1986 [(1994) 1 SCC 126 : 1994 SCC (L&S) 274 : (1994) 26 ATC 500] it was held that a person who is selected and empanelled does not on account of empanelment alone acquire any indefeasible right to appointment. Empanelment is, at the best, a condition of eligibility for the purposes of appointment and that by itself does not amount to selection or creation of a vested right to appointment unless relevant rules state to the contrary. However, in the light of the above principles and in the light of the clear rules extracted hereinbefore, it is seen that the exercise of preparation of the panel is undertaken well in advance to fill up the clear vacancies or anticipated vacancies. The preparation and finalisation of the yearly panel, unless duly certified by the appointing authority that no vacancy would arise or no suitable candidate was available, is a mandatory requirement. If the annual panel could not be prepared for any justifiable reason, yearwise panel of all the eligible candidates within the zone of consideration for filling up the vacancies each year should be prepared and appointment made in accordance therewith. In Nagar Mahapalika v. Vinod Kumar Srivastava [(1987) 1 SCC 602 : (1987) 3 ATC 25 : AIR 1987 SC 847] this Court had pointed out with respect to the prescription of the limitation of one year of the waiting list thus:



“The reason underlying the limitation of the period of a list for one year is obviously to ensure that other qualified persons are not deprived of their chances of applying for the posts in the succeeding years and being selected for appointment.”

In yet another case, in the case of ***Vijay Singh Charak Vs. Union of India and others, (2007) 9 SCC 743***, the Hon'ble Apex Court held as under:

“12. A select list can only be prepared for a particular year, and only those who are eligible in that particular year alone can be considered for selection in the select list. Even if the select list is not prepared in that very year, it will relate back to that particular year.

13. In the present case, a select list had to be prepared for the year 1991. Hence, only those officers who were eligible for induction into IFS in the year 1991 could have been considered in the select list for the year 1991 (even if it is prepared subsequent to 1991).

14. It is obvious, therefore, that clubbing is illegal. Since clubbing has been done for vacancies arising between 1991-1995 in IFS, this was clearly illegal in view of the decision in Union of India v. Vipinchandra Hiralal Shah [(1996) 6 SCC 721 : 1997 SCC (L&S) 41] .

15. In view of the above, the appeal is allowed. The



impugned judgments of the Division Bench as well as the Single Bench of the High Court are set aside. Resultantly, the impugned select list dated 12-9-1995 is quashed. The State Government is directed to prepare a fresh select list for each year separately considering only those persons/officers who were eligible for selection in that particular year. This exercise must be completed as expeditiously as possible. Any selection made in pursuance of the select list dated 12-9-1995 stands quashed. Fresh selections and appointments will be made as directed above. No costs."

19. In the light of the procedure that was followed by the respondents 1 & 2 in the matter of preparation of panel, approval of the panel and appointments made on transfer to the post of District Library Officer from the categories falling under Rule 3 (ii) of the Adhoc Rules is liable to be declared as illegal and arbitrary, especially in the context of the specific contention of the petitioners that none of the respondents 4 to 15 possessed qualification of experience as on the crucial date of the relevant panel years, when the vacancies actually occurred.



20. The another issue, whether the experience put up by the petitioners in the post of Superintendent prior to acquiring the educational qualification is to be treated as qualified experience or not, or it is only, the experience put up by the petitioners after acquiring requisite educational qualification is to be considered. Though elaborate arguments are advanced, the same is not a matter actually arise for consideration in these matters, as the respondents have not rejected the case of the petitioners on that ground.

21. Yet another contention raised by the respondents that, the alternative mode of recruitment of appointment by transfer from the post of Superintendent and other service is not a mandatory requirement. Such a contention cannot be accepted for the simple reason that the Adhoc Rules provides for such method of recruitment, only in the absence of availability of eligible candidates falling under Rule 3(i) and 3(ii) of the Adhoc Rules. When the Rules provides for such a right of consideration to the Superintendent working in other services, the same cannot be deprived of when such an occasion arise and eligible Superintendents are available for consideration of their cases for promotion to the post of District Library



Officer under Rule 3(iii) of Adhoc Rules. When a Rule mandates a particular manner, that has to be given its true effect, but the same cannot be allowed to be frustrated on frivolous grounds. Therefore, the contention that, the method of recruitment provided under Rule 3(iii) of the Adhoc Rules is not a mandatory cannot be accepted. In case, if there are no eligible candidates falling under Rule 3(i) and 3(ii) of Adhoc Rules, it is obligatory on the part of the respondents 1 and 2 to resort to method of recruitment provided under Rule 3(iii) of the Adhoc Rules.

22. In the light of the above, the impugned orders in both the writ petitions are liable to be quashed and they are accordingly quashed and both the writ petitions are allowed with the following directions;

The respondents 1 and 2 are directed to ascertain the vacancies that arose year wise during the panel years 2012-2013 to 2016-2017 and fill up the said vacancies by preparing year wise panels by considering all the eligible candidates as on the crucial date of the relevant panel year and in case, if there are no qualified candidates falling under Rule 3(i) and Rule 3(ii) then, the respondents shall consider the case of the petitioners and other



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similarly placed persons for being appointed by transfer to the post of District Library Officer under Rule 3(iii) of Adhoc rules by duly taking into consideration the experience put up by them as Superintendents in Tamilnadu Ministerial Service of Public Library Department as the requisite qualification within the meaning of Rule 4 (b) of the Adhoc Rules and pass orders in accordance with law. In case, if they come up within the zone of consideration and found to be eligible otherwise, they shall be given promotion with effect from 30.05.2017 with all consequential benefits.

23. Accordingly, both the writ petitions are allowed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

30.10.2024

Index : Yes/No
Speaking Order : Yes/No
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To:

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- 1.The Principal Secretary to Government,
State of Tamil Nadu
Department of School Education,
Secretariat,
Chennai – 600 009.
- 2.The Director
Directorate of Public Libraries
737/1, Anna Salai
Chennai – 600 002.
- 3.The Secretary,
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MUMMINENI SUDHEER KUMAR,J.

dpa

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