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W.P.No.34908/2023 & Batch



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 02-01-2024

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.Nos.34908, 34911, 34913, 34914, 34916 and 34920 of 2023

W.P.No.34908 of 2023 :

S.Subashree

...

Petitioner

-vs-

1.The Principal Secretary to Government,
Home (Courts) Department, Fort St.George,
Chennai – 600 009.

2.The Registrar General,
High Court of Madras,
Chennai – 600 104.

3.The Principal District Judge,
Erode.

...

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus directing third respondent to consider the petitioner's representation, dated 28.10.2023, and to accommodate the petitioner in a regular post in accordance with the orders passed by this Court in W.P.Nos.9710 of 2009 and 10189 of 2009, dated 10.06.2009, W.P.No.30329 to 30340 of 2017, dated 27.11.2017, and W.P.No.14287 of 2018, dated 07.12.2018.



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For Petitioner/s in all W.Ps. : M/s.Esairani Narasimhan

For Respondent 1 in all W.Ps.: Mr.P.Anandakumar,
Government Advocate.

For Respondents 2 & 3 in all W.Ps.: Mr.V.Vijayshankar

COMMON ORDER

(By *S.Vaidyanathan,J.*)

In this batch of cases, it has been contended that the petitioners have joined the services in the lower Judiciary in different posts and they have been continuing in service for years together. It is submitted that even though they are eligible and their names have been registered in Employment Exchange, they have appeared for the examination and been selected in the interview and thereafter appointed on temporary basis. According to the petitioners, the Tamil Nadu Public Service Commission has not taken any steps to complete the regular selection process and, that, due to the ineffective steps in not conducting the selection process, they have been languishing as temporary employees under General Rule 10 (a) (1) of Tamil Nadu State Subordinate Service. Their grievance is that since they have been working for years together, they should be accommodated in regular posts as per the orders passed by this Court in W.P.Nos.9710 and 10189 of 2009, dated 10.06.2009.



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2. A reading of the orders referred to above by the petitioners would make it very clear that there was no specific direction that the petitioners therein should be accommodated in regular posts. Also, the various judgments referred to specifically observed that whenever the selection takes place the petitioners are entitled to apply for the posts and the Government will consider the grant of relaxation of age to the extent of service as temporary employees and, that, in case they are successful, the recruiting authorities will give preference in the matter of appointment, subject to communal reservation.

3. Mr.V.Vijayshankar, learned counsel for respondents 2 and 3, would submit that as the petitioners are Rule 10 (a) (1) candidates, they have no right, as a matter of right, in the matter of appointment and they cannot demand that they should be continued in the said posts. He would further submit, that, it is true, that there are orders of this Court, but none of the orders has given benefit of direct or permanent employment to those persons and held that preference has to be given by relaxation of age limit. Also, he submits, that, except the petitioners in W.P.No.34920 of 2023, others are still continuing in service as Rule 10 (a) (1) candidates and that their services will not be disturbed for the present and also that they will be disengaged when regular selection process is made and candidates are selected. According to him, there is no bar



for the petitioners in this batch of cases to appear in the selection process when regular selection takes place.

4. Taking note of the submissions of both the parties, we are of the view that the petitioners in W.P.No.34920 of 2023 cannot, as a matter of right, seek for reinstatement in service, as regular selection has already taken place and new candidates have been appointed in those posts. With regard to other petitioners in this batch of cases, they are still working as Rule 10 (a) (1) candidates. Therefore, whenever, the selection process takes place, they are entitled to apply for the same. In case they fulfil the norms/requirements, they are entitled to participate in the selection process. We also make it very clear that there shall be relaxation of age and preference will have to be given to those candidates and appointments need to be based on communal reservation.

5. In the given situation, we are of the view that the petitioners in W.P.No.34920 of 2023 cannot be directed to be reinstated in service, but, however, there is no embargo for them to participate in the selection process along with other petitioners, subject to eligibility and fulfilment of necessary criteria, that may be laid down by the Public Service Commission. We reiterate that there shall be age relaxation to all the petitioners herein.



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6. Writ Petitions stand disposed of accordingly. No costs. Consequently, the connected W.M.P.No.34900 of 2023 is closed.

Index : Yes/No
Internet : Yes/No
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(S.V.N.,J.) (K.R.S.,J.)
02-01-2024

To

- 1.The Principal Secretary to Government,
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