



W.P.(MD)No.10515 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.10515 of 2024

and

W.M.P(MD).No.9439 of 2024

Kottai Eswari

... Petitioner

vs.

1.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Director General of Police,
Head Police Force, Tamilnadu,
Chennai - 600 004.

3.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order of the first respondent in G.O(3D)No.53, Home [Police V] Department dated 06.07.2022 and the consequential impugned order of the second respondent in Na.Ka.No. U.Th.Pi1[2]/6010133/2023 dated 19.02.2024, quash the same and consequently, direct the respondents to properly fix the completion of



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probation in the petitioner's service on the completion of 2 years of service from the date of her initial appointment and to grant all monetary benefits to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.M.S.Jeyakarthik
For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

Heard Mr.M.S.Jeyakarthik, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents.

2. The petitioner has filed this petition seeking to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in G.O(3D)No.53, Home [Police V] Department dated 06.07.2022 and the consequential impugned order of the second respondent in Na.Ka.No. U.Th.PI1[2]/6010133/2023 dated 19.02.2024, quash the same and consequently, direct the respondents to declare the completion of probation in her service on completion of two years of service from the date of her initial appointment and to grant all monetary benefits to her within a stipulated time.



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3. The petitioner who was appointed as a Data Entry Operator on 14.09.2005 and subsequently, appointed as a Junior Assistant on 19.04.2007 in the third respondent Office is aggrieved due to the order declaring her probation on 08.03.2020. The first respondent through the impugned order dated 06.07.2022, declared the probation of the petitioner's service, wherein it was stated that the petitioner had not attended the Bhavanisagar Foundation Training from 08.05.2017 to 19.06.2017 due to her personal reasons; she had attended the said training from 21.01.2020 to 07.03.2020 and completed the Training only on 07.03.2020; and the delay in attending the Foundation Training is due to the fault of the individual. By stating the aforesaid reasons, the petitioner's probation was declared only on the forenoon of 08.03.2020, from which date, petitioner is entitled to draw her second and subsequent annual increments in the post of Junior Assistant. The second respondent vide impugned order dated 19.02.2024, has returned the Service Register of the petitioner to the third respondent for fixation of pay in accordance with the rules in force.



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4. Initially the petitioner was asked to undergo Bhavanisagar Training in the year 2017. Since she was on medical leave from 21.04.2017 to 05.06.2017 for undergoing surgery for Hernia, she was unable to attend the same. Subsequent to her recovery, she submitted her willingness letter to the Department to undergo the said Training. However, due to administrative reasons, the petitioner was sent to Training only from 21.01.2020 to 01.03.2020, which she completed on 07.03.2020. Though the second respondent had sent a proposal to the first respondent to declare the probation of the petitioner with effect from 19.04.2009, the first respondent had declared her probation only on forenoon of 08.03.2020 stating the aforesaid reasons.

5. Mr.S.Jeyakarthik, learned counsel appearing for the petitioner submitted that the delay in sending the petitioner for Training is on the part of the respondents and the petitioner cannot be held responsible for completing the training only in the year 2020. The learned counsel counsel attracted the attention of this Court to the Judgment in ***W.P.(MD)No.6917 of 2017 dated 30.09.2021 (T.Aathi***



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Shiva vs. 1.The Additional Chief Secretary to Government, Department of Commercial Taxes and Registration, Fort St.George, Chennai - 600 009 and two others), wherein a similarly placed person has approached this Court seeking a similar relief and a learned Single Judge after referring to few other Judgments of this Court, has held that probation cannot be denied with effect from the date of completion of Departmental Test, when the deputation to Training was delayed due to administrative reasons. The relevant portions are extracted hereunder.

"9.In this case, it is submitted that the petitioner was deputed for undergoing foundational training only between 21.11.2015 and 02.01.2016. It is also admitted that the petitioner did not pass in one out of five subjects and he passed in Mathematics subject only on 21.05.2016 in his second attempt. The question therefore, is whether the petitioner's probation can be declared only after the completion of a written test conducted during foundational training. This Court has already held that the petitioner's probation cannot be denied with effect from the date of completion of department tests, when the deputation was delayed due to administrative reasons.

10.The learned Government Advocate has not pointed out any other judgments contrary to the view expressed by this Court in



similar circumstances. The first respondent declared the probation belatedly and placed the petitioner below his juniors, who are appointed subsequent to the petitioner. Merely because, there was delay in deputing the petitioner to undergo foundational training due to administrative reasons, the petitioner cannot be discriminated and the impugned order is, therefore, discriminatory and in violation of Article 14 of Constitution of India.

11. Since it is admitted that the petitioner has passed the department exam within time, his probation should be declared as completed on completion of two years. Hence, the Writ Petition is allowed and impugned order vide G.O.(D)No.388, dated 31.10.2016, is quashed and the first respondent is directed to declare the petitioner's probation as completed on 26.04.2013. The second and third respondents are directed to provide subsequent promotion to the petitioner by taking into account of the petitioner's service in the cadre of Junior Assistant with effect from 25.04.2011 and give all monetary benefits within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed."

6. In the instant case, initially, the petitioner was deputed to



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Bhavanisagar Training from 08.05.2017 to 19.06.2017. However, she was not in a position to attend the same, as she was on medical leave to undergo Hernia Surgery. Soon after the recovery of her health, she submitted her willingness letter to the Department to undergo Bhavanisagar Training. However, she was not sent to Training immediately for the reasons best known to the respondents. Subsequently, she was deputed to undergo Training only in the year 2020 and she had also completed the same in the year 2020. As it could be seen from the above *cited* Judgment, declaration of probation cannot be denied with effect from the date of completion of Departmental Test, when the deputation was delayed due to administrative reasons. Even in the case on hand, the respondents are responsible for the delay in deputing the petitioner to the Bhavanisagar Training. Therefore, in the light of the Judgment *cited supra*, the petitioner is entitled to declaration of probation, with effect from the date of completion of two years of service, if she had passed the Departmental Test in time, or else, with effect from the date of completion of Departmental Test.



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7. In view of the above observations, the writ petition is **disposed of** and the impugned order of the first respondent in G.O(3D)No.53, Home [Police V] Department dated 06.07.2022 and the consequential impugned order of the second respondent in Na.Ka.No. U.Th.Pi1[2]/6010133/2023 dated 19.02.2024 are quashed. The first respondent is directed to pass orders afresh to declare the probation of the petitioner *w.e.f.* the date of completion of two years of service, if she had passed the Departmental Test in time, or else, *w.e.f.* the date of completion of Departmental Test and to grant monetary benefits accordingly within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

29.04.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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To

- 1.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Director General of Police,
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- 3.The Superintendent of Police,
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R.N.MANJULA, J.

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