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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.10695 of 2024

and

W.M.P(MD)Nos.9576 & 9577 of 2024

S.Udhayakumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Additional Secretary to Government,
Tourism, Culture and Religious Endowments Department,
Secretariat, St. George Fort,
Chennai – 9.

2.The Commissioner,
Hindu Religious & Charitable Endowment,
Nungampakkam,
Chennai – 34.

3.G.Sangeetha,
Assistant,
O/o.the Assistant Commissioner Office,
Hindu Religious & Charitable Endowment,
Dharmapuri, Dharmapuri District.

4.S.Thenmozhi,
Assistant,
O/o.the Assistant Commissioner Office,
Hindu Religious & Charitable Endowment,
Salem, Salem District.



5.K.Jothikani,
Assistant,
O/o.the Joint Commissioner Office,
Hindu Religious & Charitable Endowment,
Thanjavur, Thanjavur District.

6.A.Vetriselvan,
Assistant,
O/o.the Assistant Commissioner Office,
Hindu Religious & Charitable Endowment,
Perambalur, Perambalur District.

7.E.Parthiban,
Assistant,
O/o.the Joint Commissioner Office,
Hindu Religious & Charitable Endowment,
Villupuram, Villupuram District.

8.T.Kannan,
Assistant,
O/o.the Joint Commissioner Office,
Hindu Religious & Charitable Endowment,
Kanchipuram, Kanchipuram District.

9.K.Priyanga,
Assistant,
O/o.the Joint Commissioner Office,
Hindu Religious & Charitable Endowment,
Kanchipuram, Kanchipuram District.

10.K.Kowsalya,
Typist,
O/o.the Joint Commissioner Office,
Hindu Religious & Charitable Endowment,
Madurai, Madurai District.

11.K.Parasakthi,
Typist,
O/o.the Joint Commissioner Office,
Hindu Religious & Charitable Endowment,
Tirunelveli, Tirunelveli District.



12.R.Mohan,
Typist,
O/o.the Assistant Commissioner Office,
Hindu Religious & Charitable Endowment,
Nagapattinam, Nagapattinam District.

13.U.Raman,
Typist,
O/o.the Joint Commissioner Office,
Hindu Religious & Charitable Endowment,
Salem, Salem District.

14.R.M.Umamaheswari,
Typist,
O/o.the Assistant Commissioner Office,
Hindu Religious & Charitable Endowment,
Trichy, Trichy District.

15.S.Sampath,
Typist,
O/o.the Assistant Commissioner Office,
Hindu Religious & Charitable Endowment,
Thiruvavarur, Thiruvavarur District.

16.D.Dinesh Kumar,
Assistant,
O/o.the Joint Commissioner Office,
Hindu Religious & Charitable Endowment,
Trichy, Trichy District.

17.A.Brindha,
Assistant,
O/o.the Assistant Commissioner Office,
Hindu Religious & Charitable Endowment,
Perambalur, Perambalur District.

18.R.Hariharan,
Assistant,
O/o.the Assistant Commissioner Office,
Hindu Religious & Charitable Endowment,
Tiruppur, Tiruppur District.



19.P.Balasubramani,
Assistant,
O/o.the Assistant Commissioner Office,
Hindu Religious & Charitable Endowment,
Tiruppur, Tiruppur District.

20.P.Karthi,
Assistant,
O/o.the Joint Commissioner Office,
Hindu Religious & Charitable Endowment,
Thiruvannamalai, Thiruvannamalai District.

*(R10 to R20 are impleaded vide Court order
dated 04.07.2024 in W.M.P.(MD)No.11538 of 2024
in W.P(MD)No.10695 of 2024)*

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned promotion cum appointment order of Assistant issued by the 2nd Respondent in his proceedings in Se.Mu.Na.Ka.No.5824/2023/P.5 dated 15.12.2023 and the consequential rejection order passed by the 2nd Respondent in his proceedings in Na.Ka.No.1925/2023/P3 dated 05.04.2024 and quash the same as illegal and consequentially to direct the Respondents to promote the Petitioner as Assistant by including his name in the panel year 2023-2024 by re-drawing the inter-se-seniority between Junior Assistants and Typists recruited in the same year under 1:1 Ratio in terms of Rule 5(b) of the Special Rules for the Tamil Nadu Ministerial Service Rules.

For Petitioner : Mr.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader
for R1 & R2
Mr.V.George Raja for R10 to R20
No appearance for R3 to R9



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ORDER

The instant writ petition has been filed challenging promotion-cum-appointment order issued to the Assistants working in the Human Resources and Charitable Endowment department, after rejecting the request of the petitioner to follow 1:1 ratio as per G.O.(Ms).No.65, Human Resources Management (B) Department, dated 04.07.2022.

2.The petitioner herein is working as Typist in the Hindu Religious and Charitable Endowment department. It is to be noted that the post of Junior Assistant and Typist are equivalent and they form a feeder category to the promotional post of Assistant. The Government of Tamil Nadu by way of G.O. (Ms).No.65, Human Resources Management (B) Department, dated 04.07.2022, has amended Rule 5 of the Special Rule for the Tamil Nadu Ministerial Service, thereby introducing the ratio of 1:1 between the Junior Assistants and Typists to be promoted to the post of Assistants.

3.By way of G.O.(Ms)No.74, Human Resources Management (B) Department, dated 16.08.2023, G.O.(Ms).No.65, Human Resources Management (B) Department, dated 04.07.2022, was cancelled.



4.The G.O.(Ms)No.74, Human Resources Management (B) Department, dated 16.08.2023, was challenged before the Principal Bench of Madras High Court in W.P.No.25637 of 2023. This Court by an order dated 31.08.2023 had stayed the operation of G.O.(Ms)No.74, Human Resources Management (B) Department, dated 16.08.2023.

5.In view of the interim order granted by this Court dated 31.08.2023, it is the contention of the learned Senior Counsel that G.O.(Ms).No.65, Human Resources Management (B) Department, dated 04.07.2022 gets revived and any promotional panel can be prepared only as per G.O.(Ms).No.65, Human Resources Management (B) Department, dated 04.07.2022. However, under the impugned order dated 05.04.2024, orders have been passed as if G.O.(Ms).No. 74, Human Resources Management (B) Department, dated 16.08.2023 is still in force and the request of the Typists had been ignored.

6.Per contra, the learned Additional Government Pleader appearing for the respondents, extensively relying upon the counter, had contented that when the impugned promotion was granted on 15.12.2023, G.O.(Ms)No.74, Human Resources Management (B) Department, dated 16.08.2023 was in force. At the relevant point of time, which in turn would have cancelled G.O.(Ms).No.65, Human Resources Management (B) Department, dated 04.07.2022 and



therefore, he wanted to sustain the order of promotion granted in favour of the private respondents.

7.A perusal of the typed set of papers clearly indicate that the operation of G.O.(Ms)No.74, Human Resources Management (B) Department, dated 16.08.2023 has already been stayed by this Court on 31.08.2023. There is no dispute whatsoever that this interim order is continuing, even as on today. The impugned order of promotion has been granted to the private respondents relying upon G.O.(Ms)No.74, Human Resources Management (B) Department, dated 16.08.2023 only on 15.12.2023 i.e., 4 months after the Government order was stayed by the High Court.

8.It is further clear that once G.O.(Ms)No.74, Human Resources Management (B) Department, dated 16.08.2023 is stayed by the High Court, G.O.(Ms).No.65, Human Resources Management (B) Department, dated 04.07.2022 gets revived and thereby the ratio of 1:1 between the Junior Assistants and the Typists also gets revived. In such circumstances, the impugned promotion order dated 15.12.2023 ignoring G.O.(Ms).No.65, Human Resources Management (B) Department, dated 04.07.2022 is clearly illegal. However, this Court is also aware of the fact that no final orders have been passed in W.P.No.25637 of 2023.



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9. In view of the above said facts, this Court is inclined to pass the following order:-

- i) the orders impugned in the writ petition are hereby set aside;
- ii) the respondents authorities herein are directed to prepare a fresh panel in the light of G.O.(Ms).No.65, Human Resources Management (B) Department, dated 04.07.2022 and effect promotion based upon the said panel; and
- iii) any promotion effected will be subject to the final orders to be passed in W.P.No.25637 of 2023 and the petitioners herein will not be entitled to claim any equity on the basis of promotion granted based upon the panel prepared, by the order of this Court.

10. With the above said observations, this writ petition stands allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are also closed.

27.09.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
RJR



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To

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Tourism, Culture and Religious Endowments Department,
Secretariat, St. George Fort,
Chennai – 9.

2.The Commissioner,
Hindu Religious & Charitable Endowment,
Nungampakkam,
Chennai – 34.



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R.VIJAYAKUMAR, J.

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