



W.P.(MD).No.28513 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.28513 of 2023

and

W.M.P.(MD)Nos.24559, 24560, 24561 of 2023 and 443 of 2024

1.P.Sasikala

2.K.Santhi

3.D.M.Rubini

...Petitioners

Vs

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
Secretariat,
St.George Fort,
Chennai.

2.The Director of School Education,
Office of the Director of School Education,
DPI Complex,
College Road,
Chennai – 600 006.

3.The Joint Director of School Education (Personnel),
Office of the Joint Director of School Education (Personnel),
DPI Complex,
College Road,
Chennai – 600 006.

4.The Chief Educational Officer,
Ramanathapuram District,
Ramanathapuram.



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5.The District Educational Officer,
Ramanathapuram District,
Ramanathapuram.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent vide his proceedings in ந.க.எண்.10030/அ3/இ1/2023 dated 27.11.2023 and quash the same as illegal insofar as deleting the names of the petitioners are concerned and consequentially to direct the respondents to include the names of the petitioners in the panel of Assistants fit for promotion to the post of upgraded Superintendent for the year 2023, for which the crucial date is 15.03.2023, within the period that may be stipulated by this Court.

For Petitioners : Mr.S.Mohamed Suhail
For M/s.Ajmal Associates

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

Heard Mr.S.Mohamed Suhail, learned counsel for M/s.Ajmal Associates appearing for the petitioners and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents.



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2. This Writ Petition has been filed seeking to quash the order of the third respondent in ந.க.எண்.10030 / அ3 / இ1 / 2023 dated 27.11.2023 insofar as deleting the names of the petitioners are concerned and consequentially to direct the respondents to include the names of the petitioners in the panel of Assistants fit for promotion to the post of upgraded Superintendent for the year 2023, for which the crucial date is 15.03.2023.

3. Mr.S.Mohamed Suhail, learned counsel for the petitioners submitted that the petitioners who have joined in the services as Typist on 17.09.2009, 17.09.2009, 23.10.2009 respectively got their probation declared vide proceedings of the fifth respondent dated 23.04.2012. The details of appointment of the petitioners and their declaration of probation are tabulated as under:

Sl. No	Name	Date of Appointment	Date of Regularization	Date of Probation	The order declaration the probation	Date or promotion as Assistant
1.	P.Sasikala	23.10.2009	23.10.2009	23.10.2011	23.04.2012	15.04.2013
2.	K.Santhi	17.09.2009	18.09.2009	18.09.2011	23.04.2012	13.04.2013
3.	D.N.Rubini	17.09.2009	17.09.2009	17.09.2011	23.04.2012	01.04.2013



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4. The petitioners have been promoted to the post of Assistant on 15.04.2013 in accordance with the order of seniority. However, when the panel was prepared for the next level promotion to the post of Superintendent on 26.04.2023, the name of the petitioners has also been included in the panel. However, on 27.11.2023, an order has been passed by removing 35 Assistants from the panel stating that on 15.03.2013, which is a crucial date for promotion to the post of Assistant, 35 persons inclusive of petitioners did not complete the probation.

5. The impugned order has been passed on a through misconception of the effect of declaring the probation for the petitioners. Even the proceedings are passed any time later than the completion of two years as per the order declaring the probation, the completion of probation is to be given with effect from the date of completion of two years that is with effect from 17.09.2011, 18.09.2011 and 23.10.2011 respectively. While preparing the panel for the next level of promotion, a different outlook was given by the respondents stating that all those persons whose probation have been declared before 15.03.2012 alone will be considered for promotion to the post of Superintendent.



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6. The delay in issuing the proceedings for declaring the probation is beyond the control of the individuals. So far as the individual employees are concerned, they have successfully completed their probation on par with their batchmates and their completion of probation has also been declared on and from the date of completion of two years of service. Just because any administrative delay had occurred on the side of the respondents to issue the proceedings later, the individuals cannot be penalized.

7. It is not the submission of the respondents that the petitioners' period of probation have been extended for any reasons and in this regard, any proceedings have been passed. In the absence of the same and also in the absence of any fault on the side of the petitioners, it is unfair on the part of the respondents to remove all those persons whose probation have been completed on and from the date during which they have completed two years of service, irrespective of the fact whether the proceedings for declaring the probation have been passed any time later than 15.03.2012.



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8. In view of the above stated reasons, the impugned order depriving the benefit of including the petitioners name in the promotion panel for the post of Superintendent is liable to be set aside.

9. Hence, this Writ Petition is **allowed** and the impugned order dated 27.11.2023 is set aside. The respondents are directed to include the names of the petitioners in the panel of Assistants fit for promotion to the post of upgraded Superintendent for the year 2023, for which the crucial date is 15.03.2023. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

10. It is needless to state that this order is applicable to the wrong construction of the principles of giving effect to the declaration of probation and hence the benefit of this order will go to all those persons who are aggrieved as similar as that of the petitioners.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

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R.N.MANJULA, J.

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