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W.P.No.3148 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.10.2025

DELIVERED ON : 13.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.3148 of 2023

A.Jayanthi

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Personnel Reforms and Administration Department,
Fort St.George, Secretariat,
Chennai 600 009.

2. The Director,
Vigilance and Anti Corruption Department,
293, M.K.N.Road,
Alandur,
Chennai 600 016.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Memorandum issued by the second respondent in Na.Ka.No.A4/3005342/2022 dated 10.01.2023 and to quash the same and consequently directing the respondents to pass orders granting promotion to the petitioner to the post of Assistant in consideration of G.O.Ms.No.122, Personnel and Administrative Reforms Department dated 02.09.2005 and further promotion to the post of Special Assistant without reference to the service qualification in the post of Assistant with retrospective effect, as ordered for



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similarly placed persons, with consequential and other attendant benefits, including further promotion, based on such revised seniority, within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.G.Sankaran, Senior Counsel
for Mr.S.Nedunchezhiyan
For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the second respondent, dated 10.01.2023, thereby rejecting the request made by the petitioner seeking promotion to the post of Assistant and Special Assistant without reference to the service qualification.

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

3. The petitioner was initially appointed as a Steno Typist Grade III in the Vigilance and Anti-Corruption Department on 12.07.1999. Though the scale of pay was one and the same for the post of Steno Typist Grade III and Assistant from 01.08.1992 and the petitioner was eligible to be promoted to the post of Assistant by transfer, there was a ban for promotion to the post of Assistant from the post of Steno Typist Grade III with effect from 01.08.1992. Subsequently, the Government passed an order in G.O.Ms.No.34 Personnel and



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Administrative Reforms Department dated 21.01.2001, thereby ordering to lift the ban by earmarking 5% of vacancies, allowing the same to be filled from the post of Steno Typist Grade III by promotion as Assistant by transfer. As per the Government Order, those who have completed eight years of service in the post of Steno Typist Grade III are eligible to be considered for promotion to the post of Assistant by transfer. Subsequently, the Government reduced the service qualification from eight years to five years for appointment from the post of Steno Typist Grade III to the post of Assistant by way of G.O.Ms.No.122, Personnel and Administrative Reforms Department dated 02.09.2005. After completion of five years of service and after passing typewriting higher grade both in English and Tamil, the petitioner became entitled for promotion to the post of Assistant by transfer. But the petitioner was actually promoted to the post of Assistant by transfer only after completion of eight years of service on 06.06.2007. Further, four years of service is required in the post of Assistant for further promotion to the post of Special Assistant. Accordingly, the petitioner was promoted as Special Assistant on 24.02.2011. As per the Government Order in G.O.Ms.No.122 dated 02.09.2005, the persons those who were appointed as Junior Assistant in the year 2002 were promoted to the post of Assistant without even completing five years of service as Junior Assistants. Therefore, the petitioner submitted a representation seeking promotion to the



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post of Assistant and subsequently to higher post as per G.O.Ms.No.122 dated

02.09.2005. However, it was rejected. Hence, this writ petition.

4. The learned Senior Counsel appearing for the petitioner relied upon the Judgment of the Hon'ble Division Bench of this Court in W.A.No.2237 and 2238 of 2011 dated 12.06.2013, in which the Hon'ble Division Bench of this Court held as follows:-

“ 5. Admittedly, the scale of pay in respect of the post of Steno-Typist Grade-III and Assistant is one and the same. The posts of Head Clerk, Accountant, Assistant and Steno Typist Grade-III are feeder categories to the post of Superintendent. The appellant sought for conversion from the post of Steno-Typist Grade-III. The appellant was given appointment by way of transfer as Assistant, which is an equivalent cadre to the cadre of Steno-Typist Grade-III, on 01.12.2006 pursuant to G.O.Ms.No.122, Personnel and Administrative Reforms Department, dated 02.09.2005, as per which, the period of eight years required for conversion was reduced to five years. The appellant had completed five years of service as Steno-Typist Grade-III in the Department of Public Libraries on the afternoon of 25.03.2004 and the stipulated service period of eight years was reduced to five years with effect from 02.09.2005. Therefore, he sought for awarding paper benefit of appointment by transfer (recruitment by transfer) to the post of Assistant from the post of Steno-Typist Grade-III on the date of promotion of one P.Raghunathan, Junior Assistant, on 01.07.2004. It is pertinent to note that the services rendered by the Head Clerk and Accountant were taken into consideration for the purpose of fixing the seniority in the cadre of Assistant, whereas, the services rendered by the appellant as Steno-Typist Grade-III were not considered, though the scale of pay in respect of the post of Head Clerk, Accountant, Assistant and



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Steno-Typist Grade-III is one and the same. As per Rule 35(b) of the General Rules for the Tamil Nadu State and Subordinate Services Rules, “the transfer of a person from one class or category of a service to another class or category carrying the same pay or scale of pay shall not be treated as first appointment to the letter for the purpose of seniority and the seniority of a person so transferred shall be determined with reference to the rank in the class or category from which he was transferred and where any difficulty or doubt arises in applying this sub-rules, seniority shall be determined by the appointing authority.”

5. A perusal of the counter filed by the respondents and also on the submissions made by the learned Additional Government Pleader appearing for the respondents revealed that as per G.O.Ms.No.122, Personnel and Administrative Reforms department dated 02.09.2005 and as per the Proviso to Rule 9(f) of Special Rules for Tamil Nadu Ministerial Service, eight years of service qualification has been reduced to five years for promotion to the post of Assistant by transfer. It was given effect only from 02.09.2005. The petitioner was selected as Steno Typist Grade III and she was appointed on 12.07.1999. Thereafter, she had passed the departmental test of Tamil Nadu Government Office Manual in the month of May, 2000, Accounts Test for Sub-ordinate Services in the month of May, 2002 and Departmental Test for Junior Assistants in the Police Department in the month of May, 2006. As per Rule 9(f) of Special Rules for Tamil Nadu Ministerial Service, these exams are the qualifications for appointment by transfer to the post of Assistant. However, the petitioner's name



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was not included in the panel of promotion to the post of Assistant during the years 2004-2005, 2005-2006 and 2006-2007. Only after passing all the departmental tests, the petitioner was qualified for promotion to the post of Assistant by transfer. Therefore, her name was included in the panel for promotion to the post of Assistant in the year 2007-2008. Thereafter, she was appointed to the post of Assistant on 06.06.2007. During the service as Assistant, she had completed her Basic Civil Service Training at Bavanisagar Government Training Institute from 06.05.2011 to 04.07.2011. The crucial date of drawing of panel of Ministerial posts is March 15th of every year. In the year 2011-2012, she was not qualified for promotion to the post of Special Assistant as per Rule 1 and 3(a)(i) of Annexure XI under Rule 38(b)(iv) of Special Rules for Tamil Nadu Ministerial Service. She had completed her four years of qualified service in the post of Assistant as on 05.06.2011. Therefore, the petitioner was not considered for the promotion to the post of Special Assistant in the year 2011-2012. After considering the representation submitted by the petitioner, she was temporarily promoted to the post of Special Assistant on 21.11.2011 and she was regularized with effect from 21.11.2011. Subsequently, she was promoted to the post of Assistant Manager on 03.07.2023. Therefore, the Judgment relied upon by the petitioner is not applicable to the case on hand.



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6. Further, as per G.O.Ms.No.122 dated 02.09.2005, the service qualification for the post of Steno Typist Grade III for appointment to the post of Assistant was reduced from eight years to five years. Further, Rule 35(b) of the Tamil Nadu State and Sub-ordinate Service Rules will not have any application as it deals with transfer of a person from one class or category to another class or category carrying the same scale of pay. It would not have been applicable, since five years of service as Steno Typist is the minimum qualification for appointment as Assistant.

7. Therefore, the case of the petitioner cannot be considered for promotion to the post of Assistant with retrospective effect. The same issue was also dealt with by the Hon'ble Division Bench of the Madras High Court Madurai Bench in W.A.(MD).No.1402 of 2014 dated 11.01.2024 as follows:-

17. We are not inclined to concur with the said view of the Hon'ble Division Bench for the following reasons:

(a) The Hon'ble Supreme Court in a judgment reported in 2015 (4) SCC 646 (Kumod Kumar and Another Vs. State of Jharkhand and Others), dated 18.12.2014 in paragraph No.25 has held as follows:

“ 25. In our considered view, as a general proposition, in the absence of any express provision, there can be no dispute whatsoever that consequent upon appointment by way of transfer a transferred employee who acquires the right to hold an equivalent post in the exigency of service or in public



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interest, is entitled for the determination of his seniority, to count the period of service rendered by him against the erstwhile post, along with the period of service rendered by him in the post to which he has been transferred.”

(b) In the preceding paragraphs, we have arrived at a finding that the appointment to the post of Assistant from the category of Steno Typist Grade III is only by way of transfer of service and not by promotion. It is also an admitted fact that both these posts carry the same scale of pay. As referred to in para 10, Rule 9 of Tamil Nadu Ministerial Service Rules deals with transfer between categories. An amendment was introduced in Rule 9 in G.O.Ms.No.163, P. & A.R(B) Department, dated 19.11.2010 wherein sub-rule (f) was introduced. This amendment introduced to Rule 9 was not brought to the notice of the Division Bench in WA(MD).Nos.339 to 342 of 2018.

(c) Under Rule 35(b) of the Tamil Nadu State and Subordinate Service Rules, there is no exception to the Rule to carry forward the seniority in cases where a minimum qualifying service is prescribed for transfer of service from one category to another category carrying the same pay scale.

(d) In the present case, the petitioner was appointed as Steno Typist Grade-III on 23.11.1994 and he was appointed as an Assistant by transfer of service on 21.12.2007. If such an interpretation is given to Rule 35(b), the petitioner would be losing his entire service between 1994 to 2007.

(e) If the seniority of the writ petitioner is reckoned in the cadre of Assistant from 21.12.2007 then it would give a different meaning as if the appointment as Assistant is either by way of direct recruitment or by way of promotion. Only in such cases, the seniority could be reckoned from the date of appointment to the promoted post.

(f) Mere prescription of qualifying service (5 years in the cadre of StenoTypist Grade-III) to be appointed as Assistant will not completely erase the services in the parent cadre. Therefore, the seniority of the petitioner has to reckon at least from the date on which he completed the qualifying service.”

8. The above Judgment is squarely applicable to the case on hand and the



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request made by the petitioner was rightly rejected by the second respondent

and this Court finds no infirmity or illegality in the order passed by the second respondent in Na.Ka.No.A4/3005342/2022 dated 10.01.2023 and the writ petition is devoid of merits and is liable to be dismissed.

9.Accordingly, this writ petition stands dismissed. No costs.

13.11.2025

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order

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G.K.ILANTHIRAIYAN. J.

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To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Personnel Reforms and Administration Department,
Fort St.George, Secretariat,
Chennai 600 009.

2. The Director,
Vigilance and Anti Corruption Department,



293, M.K.N. Road,
Alandur,
Chennai 600 016.

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Pre-Delivery order made in
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