



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-06-2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

WP No. 28601 of 2015

and

W.M.P.No.2 of 2015

T.Alexander
18, Priya Nagar Part III,
Urapakkam and Post,
Kancheepuram District.

Petitioner(s)

Vs

1. The State of Tamil Nadu
Rep. by the Secretary to Government,
Finance Department, Secretariat,
Fort St. George, Chennai 600 009.

2.A.Parimala Selvi
Under Secretary to Government,
Finance Department, Secretariat,
Fort St. George, Chennai 600 009.

3.P.A.Arulanandam
Under Secretary to Government,
Finance Department,



Secretariat, Fort St. George,
Chennai 600 009.

WEB 4.R.B.Chitra

Under Secretary to Government,
Finance Department,
Secretariat, Fort St. George,
Chennai 600 009.

Respondent(s)

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned panel of Under Secretaries to Government, Finance Department for the year 2014-2015 vide G.O.Rt. No.205, Finance Department dated 12.08.2014 issued by the 1st respondent, quash the same and direct the 1st respondent to redraw the panel of Under Secretaries to Government, Finance Department for the year 2014-2015 including the petitioner's name at Serial No.24 above the name of the 2nd respondent herein whose name is at serial No.24 and promote the petitioner as under Secretary to Government, Finance Department with retrospective benefits.

For Petitioner Ms.V.S.Manimekalai

For Respondent(s): Mr.Azizullah Khan
Government Advocate For R1

**ORDER**

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The present Writ Petition has been filed for issuance of a writ of certiorarified mandamus to call for the records relating to the impugned panel of Under Secretaries to Government, Finance Department for the year 2014-2015 vide G.O.Rt. No.205, Finance Department dated 12.08.2014 issued by the 1st respondent, quash the same and direct the 1st respondent to redraw the panel of Under Secretaries to Government, Finance Department for the year 2014-2015 including the petitioner's name at Serial No.24 above the name of the 2nd respondent herein and promote the petitioner as Under Secretary to Government, Finance Department with retrospective benefits.

2. The petitioner herein who joined as Office Assistant in Tamil Nadu Secretariat Service was promoted to the post of Assistant on 24.05.1993 and further promoted to the post of Section Officer in the Finance Department on 05.03.2009. While the petitioner was working as Section Officer in the Finance Department, the petitioner made a claim for promotion to the post of Under

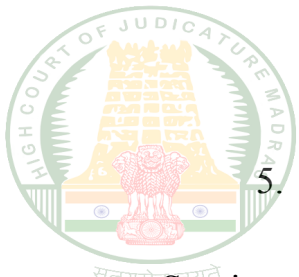


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Secretary in Tamil Nadu General Services. However, the case of the petitioner was not considered on the ground that the petitioner does not possess graduation degree and ignoring the claim of the petitioner, panel for promotion was prepared considering the cases of certain other juniors to the petitioner in the cadre of Section Officer to the post of Under Secretary to Government for the year 2014-2015 and the same was published vide G.O.Rt.No.205, Finance Department, dated 12.08.2014. It is aggrieved by the said order, the petitioner had filed the present Writ Petition.

3. Though the respondents 2 to 4 were served, they have not entered in appearance in the present Writ Petition.

4. The only question that would arise in the present writ petition is in terms of Tamil Nadu General Service Rule, whether there is any requirement of possessing a graduation of the petitioner for consideration of his case for promotion to the post of Under Secretary or not?



5. As seen from the Annexure appended to the Tamil Nadu General

Service prescribing necessary qualification for being appointed to the post of

Under Secretary by promotion from the post of Section Officer in the Finance

Department in Category 3, the following qualifications were prescribed:

(i) Must have worked as Section Officer in the sections dealing with matters relating to Budget for a period of not less than one budget session.

(ii) Must have undergone District Training for period at six months (Vide G.O.Ms.No.138, P&AR

(c)Department, dated 20.09.2010.

6. From the above qualifications prescribed in the relevant rules, it is evident that in order to be eligible for promotion to the post of Under Secretary in the Finance Department, the Section Officer working in the Finance Department must have worked in the Sections dealing with the matters relating to budget for a period of not less than one budget session and must have undergone District Training for a period of six months. If a person working as Section Officer in the Finance Department, possessed the above said



qualifications, such candidate is eligible for consideration for promotion to the post of Under Secretary in the Finance Department. This was the rule that was prevailing as on the crucial date i.e., on 01.09.2013, which is the crucial date for the panel year 2014-2015.

7. It is not in dispute that the petitioner herein possessed the twin qualification that were prescribed under Tamil Nadu General Service, as noted above. The impugned order came to be issued by the first respondent on 12.08.2014.

8. As seen from the counter filed by the first respondent, it is noticed that the case of the petitioner was refused to be considered only on the ground that the petitioner does not possess the graduation degree acquired in the format of 10+2+3, though the petitioner possessed the graduation obtained from the Open University. In support of the said contention, the first respondent placed reliance on G.O.Ms.No.107, P&AR (M) Department, dated 18.08.2009. Through the said Government Order, the Government has granted equivalence to the



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Diploma/Degree/Post Graduate degree obtained from Open Universities after having passed the Secondary School Examination and the Higher Secondary Examination that is 10th Standard and 12th Standard alone as eligible qualification for appointment/promotion in Public Services.

9. There is no quarrel with regard to the said equivalence granted by the Government. The only issue that is required to be considered is whether there was any such requirement to possess a degree in 10+2+3 format for being eligible for the promotion to the post of Under Secretary on the crucial date i.e., 01.09.2013. As already noted above, there are only two qualifications that are prescribed for being considered for appointment/promotion to the post of Under Secretary in the Finance Department from the post of Section Officer in Finance Department. Admittedly, the petitioner possessed both the qualifications and there is no dispute in this regard. There is no prescription of qualification of possessing a graduation obtained in 10+2+3 format or any other degree recognised by the University Grants Commission as on 01.09.2013. In spite of the same, the claim of the petitioner was refused to be considered for



inclusion of his name in the panel 2014-2015 for promotion to the post of Under

Secretary in the Finance Department. Such action on the part of the first

respondent is highly arbitrary and illegal. Once it is found that the petitioner is

having the qualification prescribed under relevant rules, it is not open for the

first respondent to ignore the claim of the petitioner on extraneous consideration

of possessing graduation obtained in 10+2+3 format.

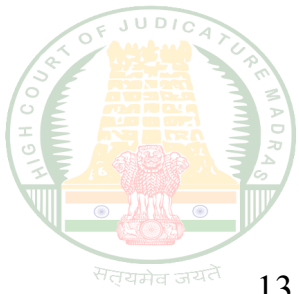
10. In the light of the above, the action of the first respondent in ignoring the claim of the petitioner from being considering for promotion to the post of Under Secretary in the Finance Department for the panel year 2014-2015 while considering the claim of juniors that is the respondents 2 to 4 is highly arbitrary and illegal. In spite of the fact that the petitioner had brought these aspects to the notice of the respondents by submitting a representation, particularly, to the Principal Secretary to Government, Finance Department, Secretariat, after issuance of the impugned Government Order, the same was refused to be considered by the first respondent by passing an order dated 18.09.2014.



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11. In the light of the above, the action of the first respondent in refusing the case of the petitioner for promotion to the post of Under Secretary in the Finance Department for the panel year 2014-2015 is liable to be set aside, as the same is highly arbitrary and illegal.

12. A view was taken by a Co-ordinate Bench of this Court in W.P.No.6315 of 2014, dated 01.12.2020 as well as by a Division Bench of this Court in W.A.No.1372 of 2013 dated 12.07.2013. The learned Division Bench of this Court was considered an identical case, where the Section Officer working in other than Finance, Law Department came up for consideration. In the said case also the requirement of possessing graduation was prescribed under G.O.Ms.No.92, P & AR (C) Department, dated 20.06.2012. The respondent in the said appeal was found to be possessed all other qualification under the relevant rules as on the crucial date for the panel year 2010-2011 viz., 01.09.2009. But the prescription of the graduation qualification was prescribed through G.O.Ms.No.92 P & AR (C)Department, dated 20.06.2012, which is subsequent to the crucial date.



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13. Mr.Azizullah Khan, learned Government Advocate appearing for the first respondent tried to distinguish the above order contending that the respondent therein entered into service as “Typist”, whereas the petitioner herein has entered into service as “Office Assistant” and then reached the position of Section officer, and therefore, the decision in W.A.No.1372 of 2013 dated 12.07.2013 has no application to the case on hand. This Court is unable to agree with the said contention advanced by the learned Government Advocate for the simple reason that the birthmarks will loose their significance, once they reach the stage of Section Officer, which is a feeder category for the post of Under Secretary in Tamil Nadu Secretariat Service. Therefore, an attempt made by the learned Government Advocate for the first respondent to distinguish the decision of the learned Division Bench cannot be accepted.

14. Considering the said fact, the learned Division Bench of this Court came to the conclusion that the claim of the respondent in the said case was erroneously rejected and confirmed the order of the learned Single Judge

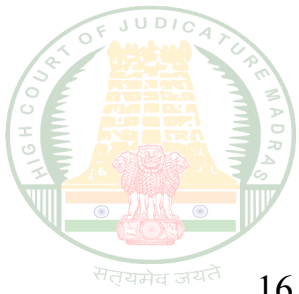


granting relief in favour of the respondent in the Writ Appeal. While upholding the order passed by the learned Single Judge, the Division Bench held as under:

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“17. On the crucial date i.e., 1.9.2009, for promotion to the post of Under Secretary, the respondent/writ petitioner, in terms of Annexure to the Tamil Nadu General Service, has fulfilled all the necessary qualifications and therefore, the appellant/official respondent ought to have considered his claim. A reading of the affidavit filed in support of the writ petition, would also disclose that he was included in the panel for promotion to the post of Under Secretary and later on only, his name was dropped on the misconception that G.O.Ms.No.107, P & AR (M) Department, dated 18.8.2009, and G.O.Ms.No.92, P & AR (C)Department, dated 20.6.2012, would be applicable to the case on hand. In the considered opinion of the Court, the learned Single Judge has rightly taken into consideration the legal as well as the factual aspects and rightly arrived at a decision that the writ petitioner is eligible to be considered for promotion to the post of Under Secretary and accordingly, granted the relief. This Court is of the view that there is no error apparent or infirmity in the reasons assigned by the learned Single Judge for allowing the writ petition and finds no merit in this writ appeal.”

15. During the course of hearing, it is brought to the notice of this Court that, during pendency of this writ petition, the petitioner has already attained the age of superannuation and retired from service on 30.04.2017 in the post of Section Officer itself.



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16. In the light of the above, except the ground of not possessing the graduation qualification, there is no other reason assigned either in the impugned order or in the counter affidavit. Therefore, this Court is unhesitation to come to the conclusion that the petitioner is eligible for consideration for promotion to the post of Under Secretary in the Finance Department on par with his immediate juniors for the panel year 2014-2015. As the petitioner has already retired from the service and the respondents 2 to 4 have not chosen to contest the case, this Court instead of disturbing the promotion granted in favour of the respondents 2 to 4 herein, deems it appropriate to direct the first respondent to give notional promotion to the petitioner from the date on which his immediate juniors were promoted and to extend all other consequential benefits including the monetary benefits. Accordingly, the first respondent is directed to notionally promote the petitioner to the post of Under Secretary with effect from the date on which his immediate junior was promoted and extend all other consequential benefits including the monetary benefits. The first respondent is directed to comply with the direction as expeditiously as possible,



in any way, within a period of two (2) months from the date of receipt of a copy

of this order. No costs. Consequently, connected Miscellaneous Petition is

closed.

25-06-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The State of Tamil Nadu,

Rep. by the Secretary to Government, Finance Department, Secretariat,

Fort St. George, Chennai 600 009.



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MUMMINENI SUDHEER KUMAR J.

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