



W.P.No.24067 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2025

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.24067 of 2016

and

WMP.No.20596 of 2016

P.S.Umapathy
Assistant Section Officer
Industries Department
Chennai 600 009.

...Petitioner

Vs.

1.The Principal Secretary to Government
Personnel and Administrative Reforms Department
Secretariat, Fort St. George
Chennai 600 009.

2.The Principal Secretary to Government
Industries Department
Secretariat, Fort St.George
Chennai 600 009.

...Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India, to issue a Certiorarified Mandamus, to call for the records relating to the first respondent's impugned Government order No.D.No.48 dated 02.03.2016, and to quash the same and consequently direct the respondents to forthwith restore pay fixation already made and done with effect from 03.02.2010 and to extend the same with other benefits accrued thereto.



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For Petitioner : Mr.S.Varun Ganesh Samiappa
for Mr.S.Sundaresan

For Respondents : Mrs.R.L.Karthika
Government Advocate

ORDER

The challenge in this writ petition is to G.O.(D) No. 48, dated 02.03.2016, issued by the Personnel and Administrative Reforms (U) Department. By the said Government Order, the representation submitted by the petitioner seeking inclusion of his name in the regular panel for the post of Assistant Section Officer for the year 2009–10, regularisation of his services, and fixation of original seniority from the date of his temporary promotion came to be rejected.

2. The petitioner, while working as an Assistant, was promoted as Assistant Section Officer on a temporary basis and was allotted to the Industries Department. However, the temporary promotion to the said post was subject to the condition that the petitioner would not be entitled to any preferential claim for future promotion to the post of Assistant Section Officer, would not be



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entitled to claim any seniority in the regular panel to be drawn subsequently, and that the promotion so granted was liable to be terminated at any time without notice. Subsequently, the petitioner submitted a representation to the Government seeking regularisation of his service and fixation of original seniority from the date of his temporary promotion. However, the said representation came to be rejected, prompting the petitioner to approach this Court.

3. Mr.S.Varun Ganesh Samiappa, learned counsel appearing for Mr.S.Sundaresan, learned counsel for the petitioner, has placed on record G.O.Ms. No. 141, dated 22.10.2018, issued by the Personnel and Administrative Reforms (U) Department. The said Government Order was issued during the pendency of the writ petition and, as per the same, pay fixation of similarly situated persons who were temporarily promoted to the post of Assistant Section Officer has been relaxed from the date of their temporary appointment. However, the said Government Order specifically states that, since the present writ petition is pending, the claim of the petitioner cannot be considered.

4. In response, Mrs.R.L.Karthika, the learned State Counsel appearing for the respondents submitted that the services of the petitioner were regularised



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from a date subsequent to the date of his temporary promotion and, therefore, the pay of the petitioner has to be refixed in terms of Fundamental Rule 22-B with effect from the date of regularisation and not from the date of appointment or promotion on a temporary basis. She further submitted that, as on the crucial date, the petitioner had not acquired the +3 qualification required for promotion to the post of Assistant Section Officer. The petitioner having acquired the +3 qualification only in the year 2013, his services in the post of Assistant Section Officer were regularised with effect from the year 2014.

5. The arguments advanced by the learned counsel on either side and the materials placed on record have been duly considered.

6. G.O.Ms.No.141, dated 22.10.2018, deals with pay protection for Assistant Section Officers who were temporarily promoted and subsequently included in the regular panel, and provides for fixation of their pay from the date of temporary promotion instead of the subsequent date of regularisation in the post of Assistant Section Officer.



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7. The relevant portions in Para Nos.2, 3 & 4 of the G.O.Ms.No.141 dated

22.10.2018 reads thus:

“2. Consequent on the orders issued in the Government Order third read above, 91 persons (85-Assistants, 1-Senior Personal Clerk and 5-Non-Graduate Assistants), who were not included in the regular panel of Assistant Section Officer for the year 2010-2011 in the Government Order seventh read above, have been allowed to continue as temporary Assistant Section Officers as a special case as done in the earlier panels for Assistant Section Officer from 2007 to 2010 without any service right. As they are officiating as temporary Assistant Section Officers, they are getting fixation and periodical annual Increments. Some of the temporary officiating Assistant Section Officers on acquiring the degree qualification in the regular pattern of 10+2+3, were included in the subsequent year regular panel for Assistant Section Officer, Their services were regularised from a date subsequent to their date of temporary promotion in the post of Assistant Section Officer.

3. The pay of the temporary Assistant Section Officers, who were included in the subsequent year regular panel, has to be re-fixed as per ruling (4) under Fundamental Rule 22-B, from the subsequent date of regularisation in the post of Assistant Section Officer. If the pay is fixed as per ruling (4) under Fundamental Rule 22-8, they will get lesser pay than the pay already drawn by them. The temporary Assistant Section Officers who have been allowed to continue as temporary Assistant Section Officers as a special case are drawing their annual periodical increments, by reckoning from the date of their temporary promotion. Thereby, they are drawing higher pay than the pay of the subsequently qualified Assistant Section Officers.



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4.The Government after careful consideration have decided to fix the pay of the Assistant Section Officers, who were included / to be included in the subsequent year regular panel, from the date of their temporary promotion instead of from the date of their regularisation, as a special case, by relaxing ruling (4) under Fundamental Rule 22-B. The pay protection shall not be extended to the persons who were temporarily promoted as Assistant Section Officers over and above the ratio prescribed in rule 8 of the Special Rules for the Tamil Nadu Secretariat Service and accommodated in the subsequent year panels and it cannot be quoted by their seniors in the seniority list of Assistant Section Officer for getting junior getting more pay.

8. A review of the aforesaid paragraph indicates that Assistant Section Officers who were promoted on a temporary basis were granted pay fixation and periodical annual increments. Some of such temporarily promoted Assistant Section Officers, upon acquiring the degree qualification in the regular pattern of 10+2+3, were included in the regular panel for the post of Assistant Section Officer in subsequent years, and their services were regularised from a date subsequent to their temporary promotion. Therefore, the Government took a decision, as a special case, to fix the pay of Assistant Section Officers who were included in the subsequent year's regular panel from the date of their temporary promotion, instead of from the date of their regularisation, by relaxing Ruling (4) under Fundamental Rule 22-B. Though the petitioner is entitled to the said

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benefit under the Government Order, however, the same has not been extended to him on the ground of pendency of the writ petition.

9. The Government having taken a conscious decision to relax Ruling (4) under Fundamental Rule 22-B in respect of similarly situated persons, denial of the same benefit to the petitioner on the ground of pendency of the writ petition is arbitrary and discriminatory. In these circumstances, the petitioner is also entitled to the benefit extended to similarly situated persons under G.O.Ms. No. 141. It is also not in dispute that the petitioner had acquired the requisite undergraduate qualification, i.e., +3.

10. Accordingly, the captioned Writ Petition is allowed. The impugned Government Order No.(D).No.48 dated 02.03.2016 is hereby set aside. The respondents are directed to refix the salary of the petitioner from the date of his temporary promotion to the post of Assistant Section Officer, instead of from the date of regularisation, by relaxing Ruling (4) under Fundamental Rule 22-B and to extend the benefits under G.O.Ms.No.141 dated 22.10.2018 issued by the Personnel and Administrative Reforms (U) Department. The exercise of refixation by relaxing Ruling (4) under Fundamental Rule 22-B shall be completed within a period of two months from the date of receipt of a copy of



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this order. It is further made clear that the respondents shall not effect any recovery from the petitioner towards any alleged excess salary paid, and if any such recovery has already been made, the same shall be reimbursed to the petitioner. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

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Index : Yes/No
Speaking order : Yes/No
dna

To

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Secretariat, Fort St. George
Chennai 600 009.

2.The Principal Secretary to Government
Industries Department
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HEMANT CHANDANGOUDAR.J.,

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