



W.P.No.14565 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.14565 of 2020

and

W.M.P.No.18057 of 2020

P.Vasanthakumari

...Petitioner

-Vs-

1.The Secretary to Government,
Tamil Development & Information Department,
Fort St.George, Chennai – 600 009.

2.The Director,
Tamil Development Directorate,
Tamilsalai, Egmore,
Chennai – 600 008.

3.The Principal Secretary,
Personnel and Administrative Reforms Department,
Fort St.George,
Chennai – 600 009.

...Respondents

****R-3 impleaded as per order dated 19.12.2024 in
W.M.P.No.22329 of 2021 in W.P.No.14565 of 2020**

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for the records relating to the 1st respondent herein in Government Letter No.13643/Tha.Va 2-1/2018-3 dated 27.02.2020 and



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quash the same and consequently issue suitable direction to the respondents herein to confer the post of Assistant Director to the petitioner as extended to similarly situated persons like Thiru.K.Saravanan and Thiru.N.Vellaichamy or in the alternative direct the respondents herein to frame a scheme to create avenue of promotion to the post of Superintendent by conferring the Administrative Assistant Director post and pass such further orders.

For Petitioner : Mr.R.S.Anandan

For Respondents : Mr.M.Rajendiran
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the 1st respondent herein in Government Letter No.13643/Tha.Va 2-1/2018-3 dated 27.02.2020 and quash the same and consequently issuing suitable direction to the respondents herein to confer the post of Assistant Director to the petitioner as extended to similarly situated persons, like Thiru.K.Saravanan and Thiru.N.Vellaichamy or in the alternative, direct the respondents herein to frame a scheme to create avenue of promotion to the post of Superintendent by conferring the Administrative Assistant Director post.



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2. The petitioner joined the services in the year 2001 as Junior Assistant recruited through TNPSC. Then in the year 2005, the petitioner was promoted to the post of Assistant. In the year 2016, the petitioner was further promoted to the post of Superintendent. The 1st respondent herein, as per the proceedings order No.9230/Ne1/2017 dated 14.11.2017 issued a seniority list of Superintendent working in the Tamil Development Department. As per the seniority list, the petitioner's name was placed in S.No.8 and there were vacant posts available in the Assistant Director Cadre. The 1st respondent is taking action and preparing the promotional panel for the promotion post of Assistant Director. The prescribed qualification for the method of recruitment by transfer of service from the holders of the post of Superintendent in the Director of Tamil Development is a Degree with Tamil in one of the parts. But whereas while making the appointment as per G.O.Ms.No.213 dated 10.10.1990, one Thiru.G.Sarvanan was appointed who did not have the Degree qualification. Thereby he was given relaxation in possession of Degree qualification. Likewise, another person, Viz., Thiru.N.Vellaichamy was given promotion without the requisite qualification based on the direction of this Court in W.A.No.665 of 2007 dated 03.04.2008.



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3. Learned counsel appearing for the petitioner would submit that the petitioner is also equally eligible for similar relaxation while making recruitment by transfer of service for the post of Assistant Director.

4. Learned counsel would further submit that the petitioner submitted her representations on 28.02.2018 and 07.09.2018 to extend similar benefits and the same were not considered. Therefore, the petitioner have filed a writ petition in W.P.Nos.24957 & 24958 of 2018. This Court by order dated 24.09.2018, has directed the 1st respondent to consider the representation of the petitioner made in this regard on its own merits and in accordance with law, within a period of six weeks from the date of receipt of copy of the order. The 1st respondent herein as per the Government Letter No.13643/T.D.2-1/2018-2 dated 01.10.2018 rejected her representation on the ground that she was not qualified for the post, without even considering the points raised in the representation. Again, the petitioner filed a writ petition in W.P.No.19955 of 2019. This Court on 16.10.2019 passed a final order and directed the petitioner to make review application before the first respondent as against the rejection order dated 01.10.2018 within a period of four weeks from the date of receipt of the copy of the order and consequently



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directed the respondents to consider the same and pass appropriate orders in accordance with law and on merits after affording an opportunity to the petitioner within a period of eight weeks. The petitioner submitted her review petition to the 1st respondent herein on 20.12.2019. But without considering the same properly and without giving any opportunity, the 1st respondent herein passed the impugned letter vide Government Letter No.13643/The.Va 2-1/2018-13 dated 27.2.2020. Aggrieved by the letter, the petitioner has filed this present writ petition.

5. It is submitted by the learned counsel that in the above order it has been clearly accepted that the relaxation of the educational qualification was given to the said Thiru.K.Sarvanan and conferred with the promotion post of Assistant Director. But contended that the educational qualification prescribed under 10+ 2+ 3 pattern as contemplated in G.O.Ms.No.107 P& AR department dated 18.8.2009 was not in force at that time. Further now, if the educational qualification is relaxed and conferred with the promotion to the petitioner, then similarly situated persons from the year 2018-2019 and 2019-2020 who have not completed the requisite educational qualification also have to be extended such benefits. The same will cause administrative



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difficulties. Further, it is also stated that Thiru.N.Vellaichamy was conferred with the promotion only after completion of the degree in the year 2003.

Since the petitioner has not obtained the Degree qualification with Tamil as one of the subjects, and also not having educational qualification as contemplated in G.O.Ms.No.107 P&AR department dated 18.08.2009 under 10 + 2 + 3 pattern, the review petition dated 20.12.2019 is rejected by the Government.

6. A counter affidavit was filed by the 2nd respondent dated 20.10.2020 and the relevant paragraphs are extracted hereunder:

“9. It is submitted that Thiru.N.Vellaichamy did not have a Tamil subject as his degree and he was not given Assistant Director promotion by the Government. Thiru.N.Vellaichamy was given promotion and appointed as Assistant Director of Tamil Development only after getting a qualification of degree in Tamil literature.

According to the Adhoc Rules for the post of Asst Director vide G.O.No.296 Tamil Development and Cultural Department dated 15.09.1987 Promotion to the Assistant Director post is Degree with one part Tamil should be completed. There is no any separate rule for AD(Admin). The petitioner was not given the Assistant Director promotion, since she was not having a required qualification of degree.

10. It is further submitted that Thiru.G.Saravanan working as Superintendent in the Director Tamil Development requested the Government since he has not qualified with the degree, to consider his age, department experience, service experience and to give relaxation for



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educational qualification for promotion as Assistant Director of Tamil Development. Director of Tamil Development recommended and forwarded his request to the Government. **Thiru.G.Saravanan was appointed and promoted as Assistant Director of Tamil Development vide G.O.Ms.No.184, Tamil Development and Cultural Department dated 01.11.90.**

7. Learned Additional Government Pleader appearing for the respondents would submit that a similarly placed person, by name, Thiru.G.Saravanan was granted relaxation for not possessing degree qualifications and was promoted to the post of Assistant Director in the Tamil Development Department, which is also evident from the above counter affidavit.

8. Heard both sides and perused the materials available on record.

9. In the case on hand, the petitioner is seeking promotion to the post of Assistant Director in the Tamil Development Department and the requisite qualification for the said post is degree with Tamil in one of the parts and the petitioner is not possessing the degree. In the case of a similarly placed person, Thiru.G.Saravanan, the Government has relaxed the eligible educational qualification of possessing a degree in Tamil and granted promotion as Assistant Director in the Tamil Development Department,



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whereas in the case of the petitioner it has been rejected, saying that the relaxation cannot be granted to the petitioner so as to be appointed to the post of Assistant Director. Hence, the rejection letters passed by the 1st respondent dated 27.02.2020 is unsustainable in law, the same amounts to discrimination and it is in violation of Article 14 of the Constitution of India.

10. In para 10 of the counter affidavit, it is clearly stated in regard to the relaxation granted to the above mentioned Thiru.G.Saravanan, and the same is extracted hereunder as follows:

10. It is further submitted that Thiru.G.Saravanan working as Superintendent in the Director Tamil Development requested the Government since he has not qualified with the degree, to consider his age, department experience, service experience and to give relaxation for educational qualification for promotion as Assistant Director of Tamil Development. Director of Tamil Development recommended and forwarded his request to the Government. Thiru.G.Saravanan was appointed and promoted as Assistant Director of Tamil Development vide G.O.Ms.No.184, Tamil Development and Cultural Department dated 01.11.90.

11. Hence, the petitioner is also entitled for the relaxation which was granted to a similarly person namely, Thiru.G.Saravanan and the petitioner also have to be promoted as Assistant Director in the Tamil



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Development Department by the respondents.

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12. In view of the above factual matrix of the case, this Court is of the considered view that the impugned letter issued by the 1st respondent vide Government Letter No.13643/Tha.Va 2-1/2018-3 dated 27.02.2020 is liable to be quashed and accordingly the same is quashed.

13. The respondents are directed to promote the petitioner to the post of Assistant Director in the Tamil Development Department on par with the similarly placed person, namely, Thiru.G.Saravanan, who was promoted to the said post by relaxing the conditions by the Government within a period of eight (8) weeks from the date of receipt of a copy of this order.

In the result, the writ petition stands disposed of with the above observations and direction. No costs. Consequently, connected miscellaneous petition is closed.

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cda

Index : Yes / No

Speaking / Non Speaking order

Neutral Citation : Yes / No



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J.SATHYA NARAYANA PRASAD, J.

cda

To

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