



WEB COPY

WP No. 18327 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-02-2025

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THE HONOURABLE MS JUSTICE R.N.MANJULA

WP No. 18327 of 2018

AND

**WMP NO. 21645 OF 2018, WMP NO. 29601 OF 2019, WMP NO. 16972 OF
2020, WP NO. 29701 OF 2019**

1. G.Venkateswaran
S/o. Gopal, Assistant, O/o. Assistant
Accounts Officer, O/o. Deputy
Transport Commissioner, Salem and
District

2. K.Kalaiselvi
D/o. Kamalanathan, Assistant, State
Transport Appellate Tribunal, High
Court Campus, Chennai - 600104

Petitioner(s)

Vs

1. The State of Tamil Nadu,
Rep. by its Additional Chief Secretary
to Government, Home(Transport IV)
Department, Secretariat, Fort St.
George, Chennai - 600009

2. The Transport Commissioner
Chepauk, Chennai - 600005



WP No. 18327 of 2018



Respondent(s)

WP No. 29701 of 2019

WEB 1. M.Kodeeswaran

S/O. Marappa Gounder Assistant O/O
State Transport Authority chepauk
chennai-5

2.K.Chinnasamy

S/O. M. Karuppannan Assistant O/O
State Transport Authority chepauk
Chennai-5

Petitioner(s)

Vs.

1. The State of Tamil Nadu

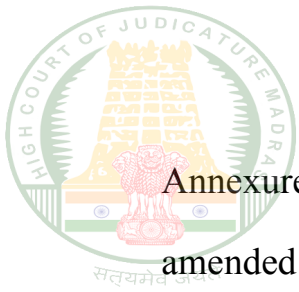
Rep by its Addl. chief Secretary to Govt
Home transport- IV Department
Secretariat, Fort.St.George, chennai-9

2.The Transport Commissioner

Chepauk Chennai-5

Respondent(s)

PRAYER in WP No. 18327 of 2018: Writ petition is filed under Section 226 of the Constitution of India, to call for the records relating to the impugned proceedings issued by the 1st respondent in Letter No. 24955/ Transport-4/ 2018-2 dated 30.05.2018 and to quash the same and consequently directing the respondents to effect promotion for the directly recruited Assistants to selection category posts including the post of Superintendent as per Rule 38(b)(ii)



Annexure - IX-E of Special Rules of Tamil Nadu Ministerial Service as amended in G.O. Ms.No. 58 Personnel and Administrative Reforms (B) Department dated 17.04.2012 without any deviation.

PRAYER in WP No. 29701 of 2019: Writ petition is filed under Section 226 of the Constitution of India, to call for the records relating to the impugned proceedings issued by the 1st Respondent in Letter No 24955/Transport-IV/2018-2 dated 30.5.18 and to quash the same and consequently directing the Respondents to effect promotion for the directly recruited Assistants to selection category posts including the post of Superintendent as per Rule 38(b) (ii) Annexure IX-E of special Rules of Tamil Nadu Ministerial service as amended in .G.O.MS NO 58 PERSONNEL AND Administrative reforms (B) department dated 17.4.12 without any deviation.

In both petitions:

For Petitioner(s): Mr.S.Nedunchezhiyan

For Respondent(s): Mr. T.Chezhan,
Additional Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the impugned proceedings issued by the 1st Respondent in Letter No 24955/Transport-IV/2018-2 dated 30.5.18 and consequently to direct the Respondents to effect promotion for the directly recruited Assistants to selection category posts



including the post of Superintendent as per Rule 38(b) (ii) Annexure IX-E of Special Rules of Tamil Nadu Ministerial Service as amended in .G.O.MS NO 58 Personnel and Administrative reforms (B) department dated 17.4.12 without any deviation.

2. The petitioners are directly recruited Assistants through Tamil Nadu Public Service Commission and they have got their probation declared. As per G.O.Ms.705 Home (Transport IV) Department dated 10.08.2010 the post of Assistant in the Transport Department will be filled by promotion and direct recruitment in the ratio 1:1. The classification in the post of Assistant in Transport Department shall be classified as non-technical and included in CSSE-I for the purpose of making direct recruitment.

3. Subsequently, the Special Rules of Tamil Nadu Ministerial Service have been amended vide notification issued in G.O.No.58 P & AR (B) Department dated 17.04.2012 by amending Rule 38(b)(ii) with addition of Annexure IX-E. Annexure IX-E relates to appointment, training and conditions of service of directly recruited Assistants (non-technical) in the Transport Department. Regulation 8 of Annexure – IX-E relates to completion of foundational training and passing of department tests for declaration of probation. The directly recruited Assistant (non-technical) have been declared with probation after passing the departmental test and foundational training and they are entitled to promotion to any selection grade post. The petitioners have



also completed Bhavani Sagar foundational training and passed departmental test and their probations were also declared. In Annexure IV issued under Rule 30 (b) of the Special Rules for Tamil Nadu Ministerial Rules, the qualification prescribed for the post of Superintendent has been prescribed as below:

Posts	Tests and Training
Superintendent	i. Account Test for Subordinate Officers, Part I; ii Department Test on the Motor Vehicles Act, 1939 (Central Act IV of 1939), the Tamil Nadu Motor Vehicles Taxation Act, 1974 (Tamil Nadu Act 13 of 1974) and the rules and Notifications made thereunder. iii. Service for a period of not less than - (a) two years as Assistant in the offices of the State Transport Authority or State Transport Appellate Tribunal or Joint Transport Commissioner or Deputy Transport Commissioner or Assistant Account Officer (Internal Audit Wing); b) one year as Accountant in any of the offices of Regional Transport Officer of the Transport Department.

4. According to the petitioners, the Rule prescribing the qualification for the post of Assistants under Rule 30 (b) is only applicable to Assistants promoted from the category of Junior Assistants / Steno Typist and not to the directly recruited Assistants. So it is claimed that for directly recruited Assistants the question of acquiring service qualification does not arise.

5. A clarification has been sought by the second respondent to the first respondent about the qualification to be fulfilled by the directly recruited Assistants for promotion to the post of Superintendent. In response to that the first respondent issued impugned proceedings dated 30.05.2018 by stating that both the Assistants appointed through direct recruitment and by promotion



should also pass and acquire the test / service qualification prescribed under the Special Rules for Promotion to the post of Superintendent. The said letter dated 30.05.2018 is challenged under Rule 38(b) (ii) Annexure IX-E of Special Rules of Tamil Nadu Ministerial Service as amended in .G.O.MS NO 58 Personnel and Administrative reforms (B) department dated 17.4.12.

6. The main contention of the petitioners is that the direct recruits to the post of Assistant should not be treated on par with the promoted Assistants and hence there need not be any service qualification as prescribed under Rule 30(b) of Tamil Nadu Ministerial Service for promotion to the post of Superintendent. Even under Regulation 10 of Annexure IX-E it has been stated in crystal clear terms that the directly recruited Assistants shall be eligible for promotion to any selection category post, provided he has successfully completed his probation and has also passed the prescribed tests. The above rule does not state anything about the promotion to the post of Superintendent. So far as the qualification criteria given to the promotion to the post of Superintendent, Annexure IV issued under Rule 30(b) still holds good. While making the said Rule no different yardstick has been adopted for the Assistants who have been recruited through promotion or direct recruitment.

7. The one and only point the Courts can understand from the records is that as per Regulation 10 of Annexure IX-E, the directly recruited Assistants become eligible for promotion to any selection category if he had completed his



probation and passed all prescribed test. The petitioners try to interpret the above Regulation only with regard to those departmental test and probation which he / she needs to acquire / complete in the post of Assistants. As there are specific eligibility requirement contemplated under Annexure IV issued under Rule 30 (b) for the post of Superintendent, the petitioner cannot claim any advantage in relaxation of requirement in the light of Regulation 10 of Annexure IX -E.

8. The learned Additional Government Pleader attracted the attention of the court to the interim order with regard to the fulfilment of the norms including service qualification, in W.M.P.No.10101/2020 in W.P.No.8406/2020 wherein it has been observed as under:

“ ... 19. In the above circumstances, the interim injunction granted by this Court on 19.06.2020 in W.M.P.No.10101 of 2020 is hereby modified and the respondents are permitted to proceed with the promotion exercise as contemplated by them pursuant to the communication dated 03.06.2020. However, the respondents are directed to ensure that the Assistants who fulfill all the norms, be that direct recruits or promotees, provided under Annexure IV of Rule 30(b) of the Special Rules alone should be considered and granted promotion.

20. It is also made clear that the Assistants, whether directly recruited or promotee, who have not fulfilled all the norms including service qualifications as per the above Rule, ought not to be considered for promotion.”



9. To be noted, the above writ petition has been filed by those Assistants who have got their post of Assistant through promotion. The grievance of those petitioners is that some of the Assistants who have been directly recruited and who did not fulfil the eligibility requirement for the post of Superintendent, have been included in the panel and were given with promotion. But the same benefit has not been given to those petitioners who are promotee Assistants. The writ petition and the Writ appeal filed challenging the above interim order are also said to be still pending. Whatever may be the case those writ petitions have not been filed challenging the Rule 30(b) of Special Rules.

10. Here is the case where the petitioners challenged Rule 30 (b)(ii) Annexure IX -E of Special Rules of Tamil Nadu Ministerial Service with reference to G.O.MS NO. 58 Personnel and Administrative reforms (B) department dated 17.4.12, more specifically Rule 10. In fact it is presumed by the petitioners that Regulation 10 of Rule 38(b) (ii) Annexure IX-E qualifies them to get whatever post and selection category in any post after their completion of probation and passing the prescribed departmental test.

11. As already observed, a specific eligibility requirement has been contemplated for the post of Superintendent under Rule 30 (b) (ii) of Annexure IV and the petitioners ought to have challenged the same. But the petitioners did not challenge the said Rule, but they have challenged the impugned proceedings dated 30.05.2018. As the petitioners have not brought any arguable point or



acceptable grounds to hold a different yardstick for the directly recruited Assistants to relax the service qualification as prescribed under Annexure IV of Rule 30(b) of the Special Rules, I do not find any illegality in the impugned order dated 30.05.2018.

12. In the result, these Writ Petitions are dismissed. No costs. Connected miscellaneous petitions are closed.

17-02-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Additional Chief Secretary to
Government, Home(Transport IV)
Department, Secretariat, Fort St.
George, Chennai - 600009

2. The Transport Commissioner
Chepauk, Chennai - 600005



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R.N.MANJULA J.

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