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W.P. No.26802 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.26802 of 2014

S.Vijayarani

... Petitioner

Vs.

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

2.The Secretary to Government,
Rural Development and
Panchayat Raj Department,
Secretariat, Chennai – 600 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned letter issued by the 1st respondent in Letter No.32262/H1/2014, Personnel and Administrative Reforms Department, dated 08.09.2014 and quash the same and consequently direct the 1st respondent to consider the name of the petitioner for the post of Section Officer in the panel for the year 2012-13 as on 01.06.2012 and to promote her with all monetary benefits.

For Petitioner : M/s.N.Ravichandran



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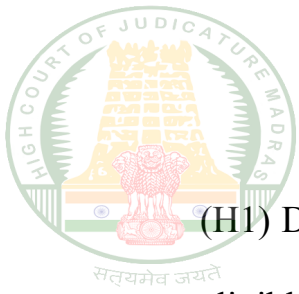
for Mr.T.Ranganathan

For Respondents : Mr.P.Kumaresan
Additional Advocate General
assisted by Mr.S.John J Raja Singh
Additional Government Pleader

ORDER

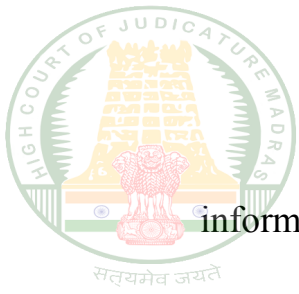
The petitioner herein, who was working as Assistant Section Officer in Tamil Nadu Secretariat Service, made a claim for promotion to the post of Section Officer for the panel year 2012-2013 before the respondents, and on rejection of the said claim, through proceedings dated 08.09.2014, the petitioner approached this Court by filing the present writ petition seeking to quash the said proceedings dated 08.09.2014 and for direction to promote the petitioner to the post of Section Officer for the panel year 2012-13.

2. From the perusal of the impugned order dated 08.09.2014, it is evident that the claim of the petitioner was negated by the respondents on the ground that the estimate of vacancy for the post of Section Officer for the panel year 2012-2013 was fixed as NIL vide G.O.(4D).No.18, Personnel and Administrative Reforms (H1) Department dated 27.03.2013, and the consequent preparation of a nil panel for the said panel year through Government orders in G.O.(4D).No.20, Personnel & Administrative Reforms



(H1) Department, dated 12.04.2013. According to the petitioner, she became eligible for being appointed on promotion to the post of Section Officer during the panel year 2010-11. But, because of the pendency of the disciplinary proceedings against the petitioner under Rule 17(b) of the Tamil Nadu Government Servants (Discipline and Appeal) Rules, she was not eligible for consideration for promotion during the said panel year. So also, according to her, she is not eligible for consideration for promotion during the panel year 2011-12, and however, she is eligible for consideration for promotion for the post of Section Officer during the panel year 2012-2013. It is the further case of the petitioner that there are 33 posts of Section Officer that would be available for filling up during the panel year 2012-13. But inspite of the same, the respondents have declared the vacancy position as nil and refused to prepare a panel for the said panel year.

3. As already noted above, the reason for rejecting the claim of the petitioner is that there are no vacancies during the panel year 2012-13 for filling up by way of promotion from the post of Assistant Section Officer, and consequently, a nil panel was prepared as required under the relevant Rules by issuing appropriate Government orders. Inspite of the petitioner being



informed about the said orders dated 27.03.2013 and 12.04.2013, for the reasons best known, the petitioner has not chosen to question the said orders before this Court, but she only questioned the consequential information furnished to her through impugned letter dated 08.09.2014. In the absence of any challenge to the nil panel prepared for the panel year 2012-13, the question of finding fault with the impugned letter does not arise. On this ground alone, the writ petition is liable to be dismissed.

4. Be that as it may, the contention of the petitioner that there would be 33 vacancies available for filling up during the panel year 2012-13 was sufficiently answered by the respondents in their counter affidavit in para 3, which reads as under:

“3. With reference to the averments made in para 4 of the affidavit, it is submitted that the allegations contained in this para are denied and the estimate of vacancy for the post of Section Officer in the Departments of Secretariat under one unit for the year 2012-2013 was fixed as NIL in G.O.(4D) No.18. Personnel and Administrative Reforms (H1) Department, dated 27.03.2013 (copy enclosed) and consequently a NIL panel was issued in G.O.(4D) No.20, Personnel and Administrative Reforms (H1) Department, dated 12.04.2013. considering her name for inclusion in the said panel for the post of Section Officer does not arise. It is submitted that as per Rule 4 of the General Rules for the



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Tamil Nadu State and Subordinate Services and the instructions issued thereunder, the estimate of vacancy has to be prepared annually for the vacancies arising in that panel period. It is submitted that while calculating the estimate of vacancies, the following vacancies have to be taken into account:

(i) Vacancies existing in the post for which the estimate is prepared are to be taken into account as existing vacancies;

(ii) Vacancies arising due to retirement in the said post during the panel period are to be taken into account as retirement vacancies; and

(iii) Vacancies arising due to retirement in the immediately higher post are to be taken into account as promotional vacancies;

Out of the above said vacancies, set off has to be given for persons deputed outside and expected to be returned to the original post during the panel period, if any. In line with the above said instructions, the estimate of vacancies for the post of Section Officer for the year 2012-2013 has been prepared. The estimate of vacancy cannot be prepared as enumerated by the Petitioner taking into account the vacancies alleged to have been arisen in the posts of Deputy Secretary / Joint Secretary / Additional Secretary for the reason that the post of Section Officer is not the feeder category to the above said posts. It is submitted that the estimate of vacancy for the post of Section Officer in the Departments of Secretariat under one unit for the year 2013-2014 was fixed as 25 vide G.O.(4D) No.72, Personnel and Administrative Reforms (H1) Department, dated 18.12.2013. However, this Hon'ble Court, in its order, dated 10.12.2013 made in W.P.No.33421 of 2012 filed by Thiru A.Suga and 26 Others, has directed to consider the plea of converting the Temporary List' for promotion to the post of Assistant Section Officer for the year 2007-2008 issued in G.O.(4D) No.11, Personnel and Administrative Reforms (U) Department, dated 05.02.2008 into 'Regular



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panel' with fixation of seniority list (prior to issuance of any Regular panel for promotion to the post of Section Officer). Therefore, no further action could be taken to prepare the regular panel of Assistant Section Officers fit for appointment as Section Officers for the year 2013-2014 with regard to the estimate of vacancy approved in the above said G.O.. Now, the temporary list for promotion to the post of Assistant Section Officer for the year 2007 -2008 issued in G.O. (4D) No.11. Personnel and Administrative Reforms (U) Department, dated 05.02.2008 has been converted into regular panel vide G.O.(4D) No.30. Personnel and Administrative Reforms (U) Department, dated 19.05.2014. The proposal of fixing inter-se seniority between the promotees and the direct recruits is under active consideration of the Government in consultation with the Tamil Nadu Public Service Commission. In view of the position stated above, the regular panel for the post of Section Officer for the year 2013-2014 has not yet been prepared. Therefore, the individual's name could not be considered for promotion to the post of Section Officer, as no panel was prepared after the issuance of the regular panel for the year 2011 -2012. In view of the above said circumstances, the request of the petitioner in her representation dated 13.08.2014 to Include her name in the Section Officer Panel for the year 2012 2013 could not be complied with. Hence, a reply has been furnished to the individual accordingly in Government's Letter No.32262/H1/2014, Personnel and Administrative Reforms (H1) Department, dated 08.09.2014. Therefore, the contention of the Petitioner regarding the vacancy position is denied as false and incorrect."

5. As against the said specific contention of the respondents especially explaining the fallacy in the manner in which the estimated



vacancies was assumed by the petitioner, the petitioner has failed to contradict the averments made in para 3 of the counter affidavit. In the absence of any contradiction to the contentions raised by the respondents as above, this Court cannot accept the contention of the petitioner that there would be 33 vacancies of Section Officer available for filling up during the panel year 2012-2013. Therefore, the contention of the petitioner that there would be 33 vacancies of Section Officer available for filling up during the panel year 2012-2013 cannot be accepted and this Court unable to find any basis for such contention.

6. Further, the claim of the petitioner for promotion to the post of Section Officer for the panel year 2013-14 was not considered by the respondents because of the orders passed by this Court in W.P.No.33421 of 2012 dated 10.12.2013. This aspect of the matter is also not disputed by the petitioner either by filing any reply or rejoinder affidavit. Therefore, the claim of the petitioner for promotion to the post of Section Officer during the panel years 2012-13 and 2013-14 cannot be sustained.

7. In the light of the above, this Court does not find any illegality or



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arbitrariness on the part of the respondents in issuing the impugned order and accordingly, the writ petition is dismissed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

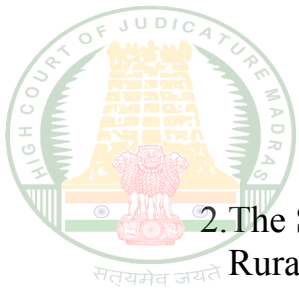
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Index : Yes/No
Speaking Order : Yes/No
dpa

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MUMMINENI SUDHEER KUMAR,J.

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