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W.P.No.30025 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.03.2025

Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.30025 of 2023

M.Menaka

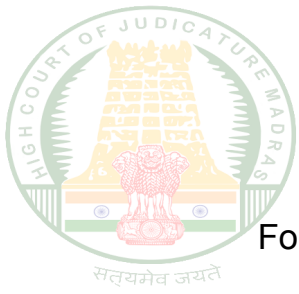
... Petitioner

Vs.

1. The Secretary to Government,
Labour Welfare and Skill Development Dept.,
Secretariat, Chennai – 600 009
2. The Secretary,
Tamilnadu Public Service Commission,
VOC Nagar, Park Town,
Chennai – 600 003
3. The Labour Commissioner,
Labour Commissionerate Office,
DMS complex,
Teynampet, Chennai – 600 006
4. The Deputy Inspector of Labour
Labour Deputy Inspector Office,
Dharapuram, Tiruppur – 638 656

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondents to include the petitioner's name in the panel year 2015 in appropriate place instead of 2016 panel year within a time frame to be fixed by this Court.



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For Petitioner

: Mr.K.Thenrajan

For Respondents

: Mr.R.U.Dinesh Rajkumar for R1, R3 and R4
Additional Government Pleader
Mr.R.Bharanidharan for R2
Standing Counsel – TNPSC

ORDER

The petitioner has filed this Writ Petition seeking for an issuance of a Writ of Mandamus directing the respondents to include the petitioner's name in the panel year 2015 in appropriate place instead of 2016 panel year within a time frame to be fixed by this Court.

2. The brief facts of the case, as averred by the petitioner is as follows:-

(i) The petitioner, at present working as an Assistant in the office of the 4th respondent, under the 3rd respondent herein. In the year 2011, the petitioner was appointed as a Junior Assistant on compassionate ground due to the death of her father, namely, K.Murugesan, who was working as a Block Development Officer, Erode District. Simultaneously, the petitioner appeared in the Group IV exam conducted by the 2nd respondent and the petitioner was called for certificate verification. During certificate verification dated 19.12.2012, it was indicated by the 2nd respondent that the certificate regarding person studied in Tamil Medium (PSTM) certificate should be submitted and no objection certificate issued by the



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previous employment office in a proper format within 7 days and the same was submitted on 26.12.2012. The officials replied to the petitioner that the documents submitted on 26.12.2012 were not in proper format and re-submit the same documents in proper form.

(ii) Again on 29.04.2013, the petitioner submitted no-objection certificate and PSTM certificate along with one covering letter. If the 2nd respondent officials asked this document earlier, the petitioner would have submitted the documents earlier. Therefore, the delay caused is purely happened on the negligence of duty of the concern 2nd respondent officials, who handled the petitioner's file. Further, it was informed that the petitioner was directed to appear in person along with all requisite documents, after completion of all procedures, from 09.01.2014 onwards, the petitioner was employed in the Labour Welfare Department / 3rd respondent.

(iii) In the year 2015 and 2016 promotion panel was issued by the 3rd respondent, wherein the petitioner's juniors were included in the year 2015, but the petitioner's name was included in the panel year 2016. When the same was questioned, the 3rd respondent replied that the juniors to the petitioner have completed their probation period on 15.03.2015, however, the petitioner has not completed the probation on time and hence the petitioner's requisition was

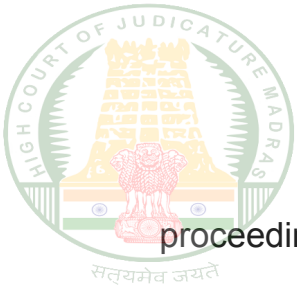


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rejected. The delay in submitting the non-objection certificate was not on the part of the petitioner, but the delay is on the part of the 2nd respondent, therefore, with no other alternative remedy, the petitioner has come up with the present petition.

3. Per contra, a detailed counter affidavit is filed by the respondents wherein it is averred as follows:-

(i) The petitioner was selected as Junior Assistant by Tamil Nadu Public Service Commission for the year 2007-2008 to 2012-2013 and allotted to the 3rd respondent Department, i.e., Labour Department vide letter No. 866/PSD-D1/2013, dated 2.9.2013. The petitioner was temporarily posted as Junior Assistant in the Office of the Stamping Inspector, Dharapuram vide 2nd Respondent proceedings No. G3/54048/2013, dated 19.12.2013 under Rule 10(a)(i) of the General Rules of the Tamil Nadu State and Sub-ordinate Services and joined duty on 9.01.2014. The 3rd respondent fixed the combined seniority number C1223 to the petitioner along with the recruitees of the same batch of 2007-2008 to 2012-2013, vide Memorandum No. G3/35408/2017, dated 24.10.2017 as per seniority list which was received from the 2nd Respondent vide letter No 4872/PSD-H/2014, dated 16.6.2015. The petitioner joined the duty in the 3rd respondent department on 9.1.2014, the temporary service of the petitioner was regularized by the Coimbatore, Joint Commissioner of Labour, vide



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proceedings No A/5837/2015, dated 8.12.2015 from the date of joining i.e 9.1.2014. In the above proceedings it was clearly stated that for further promotion the petitioner should complete her probation period i.e., continuous of two years within three years and passing the relevant department examinations conducted by the 2nd Respondent. The petitioner was completed her probation period on 9.2.2016, as per the Tamil Nadu Ministerial Service Rules 34(a) *“Persons appointed to the service, whether by direct recruitment or by recruitment by transfer from another service, as the case may be, in the categories or posts specified in column (1) of Annexure V shall pass the tests or undergo the training or acquire the qualification specified in the corresponding entry in column(2) within the period stated in or as otherwise required by the corresponding entry in column (3) thereof:”*

(ii) Further, the petitioner failed to produce the NOC and PSTM certificates to the TNPSC during certificate verification and she had produced the above certificate to TNPSC on 29.04.2013, subsequently, she was deputed on 11.09.2013 and she was posted as junior assistant vide proceedings dated 19.12.2013, joined as junior assistant on 09.01.2014, hence the delay could not be treated as Administrative Delay. The petitioner joined as Junior assistant on 09.01.2014, completed her probation on 09.02.2016 and she is eligible for panel



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assistant as on 15.03.2016 only whereas the petitioner's junior M.Sivakumar, joined as Junior Assistant on 30.01.2013, completed his probation on 29.01.2015 and he is eligible for the panel as on 15.03.2015, thereby pleaded to dismiss the petition.

4. Heard the learned counsel on either side and perused the documents placed on record.

5. It is relevant to note that the petitioner joined the duty in the 3rd respondent department on 09.01.2014, the temporary service of the petitioner was regularized by the Coimbatore, Joint Commissioner of Labour vide proceedings No.A/5837/2015 dated 08.12.2015 from the date of joining, i.e., 09.01.2014. Further, in the said proceedings, it was clearly stated that for further promotion the petitioner should have completed her probation period, i.e., continuous of two years within three years and passing the relevant department examinations conducted by the 2nd respondent. The petitioner has completed her probation period on 09.02.2016, as per Rule 34(a) of the Tamilnadu Ministerial Service Rule.

6. At this juncture, it is to be noted that the Tamilnadu Ministerial Service Rule 34(a) indicates that the "*persons appointed to the service, whether by direct*



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recruitment or by recruitment by transfer from another service, as the case may be in the categories or posts specified in Column (1) of Annexure V shall pass the tests or undergo the training or acquire the qualification specified in the corresponding entry in column (2) within the period stated in or as otherwise required by the corresponding entry in column(3) thereof.

Annexure V

Tests to be passed, training to be undergone or other qualifications to be acquired by persons appointed to the service:

Member of the service (1)	Test, training or qualification (2)	Period (3)
Labour Department		
<i>Junior assistants</i>	<i>Special Test on Tamilnadu Government Office Manual</i>	<i>Within the prescribed period of probation or within two years from the date of appointment, as the case may be."</i>

Also Tamilnadu Ministerial Service Rules 30(b) states that 'No member of the service shall be eligible for promotion to any of the posts mentioned in column(1) of Annexure IV unless and until he has passed the special tests or undergone the training, if any, specified in the corresponding entry in column(2) thereof:



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Annexure IV

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<i>Posts (1)</i>	<i>Tests and Training (2)</i>
<i>2.Assistants</i>	<i>(i) Labour and Factories Departmental Tests, Part A and B (ii) Account Test for Subordinate Officers, Part I (iii) Special Test on Tamilnadu Government Office Manual"</i>

In view of the above said Rules, this Court is of the view that the petitioner's claim to include her name in the panel of 2015 cannot be considered , in view of the fact the petitioner failed to produce the NOC and PSTM Certificates to the TNPSC during certificate verification and produced the said certificates to TNPSC only on 29.04.2013 and thereafter vide proceedings dated 19.12.2013, the petitioner had joined as junior assistant on 09.01.2014 and hence she is eligible for the panel as on 15.03.2016 only after completion of her probation.

In the result, the present Writ Petition is dismissed. No costs.

03.03.2025

Index: Yes/No
Internet: Yes/No
Speaking / Non speaking Judgment

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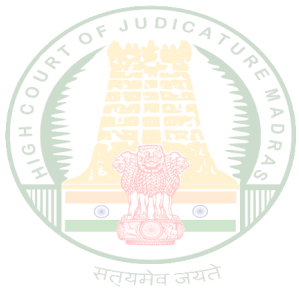


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2. The Secretary,
Tamilnadu Public Service Commission,
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Chennai – 600 003
3. The Labour Commissioner,
Labour Commissionerate Office,
DMS complex,
Teynampet, Chennai – 600 006
4. The Deputy Inspector of Labour
Labour Deputy Inspector Office,
Dharapuram, Tiruppur – 638 656



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V.BHAVANI SUBBAROYAN, J.

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