IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-03-2025

CORAM

THE HONOURABLE MRS JUSTICE V.BHAVANI SUBBAROYAN

WP No. 32043 of 2023

1. Seethalakshmi.G
W/o.Kannan.M, No.39b, Indira Nagar,
Third West Street, Kattupakkam,
Chennai- 600 056.

Petitioner(s)

Vs

1. The Commissioner Of Commercial
Taxes
Ezhilagam, Chennai-06.

2.The Joint Commissioner (st)
Chennai (central) Division, Iii Floor,
P.A.P.J M Buildings, Greams Road,
Chennai- 06.

3.The Assistant Commissioner (st)
Ayanavaram Assessment Circle,
No.F50, 1st Avenue, Anna Nagar,
Chennai-102.

Respondent(s)

PRAYER

This Writ Petition is filed under Article 226 of Constitution of India seeking Writ of Certiorarified Mandamus to call for the records of the proceedings of the 2nd respondent in Na.Ka,Bi,3844/2023/A2 dated 12.09.2023 forwarded by the 3rd respondent vide proceedings in Rc.No.199/2023/B3 dated 16.10.2023 and quash the same and consequently direct the respondents to promote the petitioner as Assistant with effect from the date on which those from the petitioner's cadre were given promotion as Assistant and pass orders.

For Petitioner(s): Mr.M.Hariharan

For Respondent(s): Mrs.K.Vasanthamal
Government Advocate

ORDER

This Writ Petition is filed seeking to quash the proceedings of the 2nd respondent in Na.Ka. No. 3844/2023/A2 dated 12.09.2023 forwarded by the 3rd respondent vide proceedings in Rc.No. 199/2023/B3 dated 16.10.2023 and consequently direct the respondents to promote the petitioner as Assistant with effect from the date on which those from the petitioner's cadre were given promotion as Assistant.

2. The case of the petitioner is that the petitioner was provisionally selected as Typist through Group IV Tamil Nadu Public Service Commission Examination 2013-14 and she joined the duty on 13.10.2014 in the office of the

Assistant Commissioner (CT), Choolai Assessment Circle, Chennai vide an order dated 09.10.2014. Petitioner went on 180-days of maternity leave from 22.10.2014 to 19.04.2015, and she completed her probation period of two years in a continuous period of three years in the cadre of Typist on the afternoon of 10.04.2017. The petitioner was not eligible for the promotion given to those in her cadre as the crucial date before which the probation period had to be completed to be even in consideration for promotion was 15.03.2017 and therefore, she was considered for promotion only in the year 2018. At present, the petitioner is working as an Assistant in the office of the Assistant Commissioner (CT), Ayanavaram. While things stood thus, the petitioner was made aware of the order made in W.P.No.8657 of 2016, dated 06.04.2022 wherein it was held that the probation declared had to be dated back to the date on which the petitioner would have originally completed such probation, if not for her maternity leave, in such a way that on the subsequent crucial date for preparation, she would be eligible for the same. In view of the direction laid down in the above said judgment, the petitioner made a representation before the second respondent on 07.07.2023, requesting to move her name from the

Junior Assistant/Typist/Steno-Typist Promotion List for the year 2018 to the Junior Assistant/Typist/Steno-Typist Promotion List for the year 2017. However, the same was denied by the second respondent stating that the direction in the aforementioned Writ Petition was given to an individual working in a different department, and the said direction would not be applicable to the petitioner. Aggrieved by the same, the petitioner is before this Court by way of the instant Writ Petition.

3. Learned counsel for the petitioner would submit that the petitioner's right to be considered for promotion along with those in her cadre was ignored for the sole reason that she completed her probation period on 10.04.2017 in a continuous period of three years which involves her 180 days of maternity leave instead of 15.03.2017, which is the overall date to be considered for promotion. As a result, those in her cadre who were recruited at the same time as her, are now in ranks above her, causing prejudice to the interests of the petitioner. In support of her contention, the learned counsel for the petitioner also relied on the judgment of this Court in ***Tmt.C.Selvi Vs. The Director of Government***

Examination, Chennai & others in W.P.No. 19426 of 2016 dated 05.01.2022, wherein a similar issue was dealt with, and the petitioner therein had obtained order in her favour. Therefore, the learned counsel for the petitioner seeks for a suitable relief.

4. Learned Government Advocate for the respondent would submit that the petitioner was not considered for promotion on par with her batchmates as per the standing service rules and regulations. Hence, she prays for the dismissal of the Writ Petition.

5. Heard both sides and perused the materials available on records.

6. On a perusal of the records, it is seen that the petitioner had taken 180 days of maternity leave and as a consequence, she was not considered for promotion for the year 2017, which deprives her right to be considered for promotion on par with her batch mates. Further, in a similar case, this Court in

W.P.No.8115 of 2018 dated 25.04.2018, directed the respondents that the period spent on maternity leave should be considered as duty period for the purpose of promotion.

7. In view of the discussions made above, this Court directs the respondents to consider the petitioner's 180 days of maternity leave from 22.10.2014 to 19.04.2015 as duty period, and consider her for promotion for the year 2017, and pass appropriate orders in the manner known to law, preferably within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above observations and directions, this Writ Petition is disposed of. No costs.

21-03-2025

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

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V.BHAVANI SUBBAROYAN J.

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