



W.P.(MD).No.26561 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.26561 of 2024

and

W.M.P(MD) Nos.22522, 22524 and 22526 of 2024

M.Thirumalaikani
Junior Assistant,
Regional Transport Office,
Tenkasi.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Home (Transport) Department,
Secretariat, Chennai – 600 009.

2. The Transport Commissioner,
Guindy,
Chennai – 600 032.

3. The Regional Transport Officer,
Regional Transport Office,
Tenkasi District,
Tenkasi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent in connection with the impugned



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deferred list issued to the post of Assistant in his proceedings in Proc.R.No. 185/RB1/2022 (E.O.No.387/2024) dated 24.06.2024 and quash the same in so far as the petitioner is concerned and consequently direct the respondents 1 and 2 to approve the declaration of probation of the petitioner issued by the third respondent in his proceedings in Proc.No.A1/29074/2023, dated 22.08.2023 and thereby promote her as Assistant for the period 2023-2024 by placing her in the appropriate place in the approved list of promotion to the post of Assistant issued by the second respondent in Proceedings No. 21152/RA2/2024/2024 (E.O.No.422/2024) dated 03.07.2024 on par with her junior with all service and monetary benefits within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
for Mr.K.Gurunathan

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by a Junior Assistant working in the Regional Transport Office, Tenkasi, challenging the panel published by the second respondent herein on 24.06.2024, wherein, the name of the petitioner has been placed in the Deferred List.



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2. A perusal of the impugned panel of the second respondent reveals that it has been deferred for promotion to the post of Assistant from Junior Assistant for the year 2023-2024. It further reveals that the name of the petitioner is in Serial No.117 and it has been listed under the deferred list on the ground that the probation of the writ petitioner has been erroneously declared by the third respondent without seeking rule relaxation. This order is put to challenge in the present writ petition.

3. According to the learned counsel appearing for the writ petitioner, the third respondent is the competent authority to declare the probation of the writ petitioner and he had accordingly declared the probation on 22.08.2023 with effect from 12.08.2022 and once the probation has already been declared, if the higher authority finds that to be irregular, he has to ratify the same and the name of the petitioner cannot be placed in the deferred list.

4. Per contra, the learned Additional Government Pleader appearing for the respondents herein had contended that the petitioner has joined duty as Junior Assistant on 10.08.2020 and she had underwent Bhavanisagar Training



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between 28.04.2023 and 15.06.2023. Therefore, the training has not been completed within the probation period of two years. In such circumstances, if the probation has to be declared on completion of two years, relaxation has to be granted by the Government. Though the Regional Transport Officer is the competent authority for declaring the probation but in cases which require ruling relaxation, probation can be declared by the third respondent only after the Government has granted relaxation. Hence, he contended that the order of declaring probation passed by the third respondent on 22.08.2023 is irregular.

5. The learned Additional Government Pleader appearing for the respondents herein further contended that after understanding the mistake, the third respondent has forwarded a proposal on 09.07.2024 to the second respondent seeking relaxation of Rule 34 (a) of Tamil Nadu Ministerial Service for declaring the probation of the writ petitioner. The said revised proposal has been received by the office of the second respondent only on 26.12.2024 and it is under active consideration. He further submits that the second respondent would forward the same to the first respondent herein and after getting orders from the Government, the petitioner's name will be



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included in appropriate place on par with the juniors as per the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, and the benefits will also be distributed.

6. The second respondent has filed a counter affidavit. The relevant portion in Paragraph No. 14 of the counter affidavit is extracted as follows:

..... *“The Regional Transport Officer is the competent authority to declare the probation of Junior Assistant. In the case of the writ petitioner, relaxation of Rule 34(a) of Special Rules for Ministerial Service is required since she had completed the Bhavani Sagar Foundational Training belatedly on 28.04.2023 to 15.06.2023 while her probable date of completion of probation is 12.08.2022 A.N. The third respondent had declares her probation erroneously without getting rule relaxation of Rule 34 (a) of Special Rules for Tamil Nadu Ministerial Service. The writ petitioner also accepted the erroneous order without submitting her objection which reveals that the writ petitioner is unaware of the rule provision. After getting order of the Government, the petitioner's name will be*



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included in the appropriate place on par with the junior as per the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and benefits will also be distributed. Hence, there is no malice to the petitioner to be happened. Hence, these grounds are sustainable”.

7. In view of the above said undertaking given by the second respondent, the Deferred List published by the second respondent need not be interfered with. The second respondent is directed to forward the revised proposal submitted by the third respondent on 26.12.2024 to the first respondent within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the first respondent is directed to pass appropriate orders within a period of eight weeks thereafter. In case, if the probation of the writ petitioner is declared after relaxing the Rules, it is needless to point out that the petitioner shall be placed on par with her juniors for the panel year 2023-2024 with all attending benefits.



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8. With the above said observation, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

24.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Principal Secretary to Government,
Home (Transport) Department,
Secretariat, Chennai – 600 009.
2. The Transport Commissioner,
Guindy,
Chennai – 600 032.
3. The Regional Transport Officer,
Regional Transport Office,
Tenkasi District,
Tenkasi.



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