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WP No. 34125 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-01-2026

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP No. 34125 of 2016

AND

WMP NOS.29445 & 29446 OF 2016

1. N.V.Krishnaveni
Senior Typist, Agriculture Department,
Secretariat, Chennai-9.

Petitioner(s)

Vs

1. The Secretary to Government
Personnel and Administrative Reforms
Department, Secretariat, Chennai-9.

2.The Secretary
Tamil Nadu Public Service
Commission, Frazer Bridge Road,
VOC Nagar, Park Town, Chennai-3.

3.The Secretary to Government
Agriculture Department, Secretariat,
Chennai-600 009.

Respondent(s)

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent issued in Letter No.10985/H2/2015-1, P &



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AR Department, dated 21.05.2015 and quash the same and consequently, direct the 1st respondent to restore the seniority of the petitioner in the post of Typist as per the seniority assigned by the 2nd respondent in the selection list communicated in Letter No.4265/PSD-A/2009 dated 17.7.2009 above Thiru.D.Venkatesan (Seniority No.151) and consequently consider her name in the panel for the post of Senior Typist prepared for the year 2012-13 with all monetary benefits, within a reasonable period which may be fixed by this Hon'ble Court.

For Petitioner(s): Mr.T.Ranganathan

For Respondent(s): Mr.UM.Ravichandran
Special Govt. Pleader for R1&R3
Mr.B.Vijay,
SC For TNPSC For R2

ORDER

The present writ petition has been filed challenging the impugned order dated 21.05.2015, wherein the petitioner's request for promotion was rejected.

2.Heard Mr.T.Ranganathan, learned counsel for the petitioner, Mr.U.M.Ravichandiran, learned Special Government Pleader appearing for the respondents 1 & 3 and Mr.B.Vijay, learned Standing Counsel appearing for the 2nd respondent.



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3.The learned counsel for the petitioner would submit that the petitioner was appointed in the respondent-Department during 2007 and has been working as a Typist continuously. In the meanwhile, she has participated in TNPSC recruitment and got selected for the post of Typist vide order dated 17.07.2009, however, by unilateral decision her community certificate was referred for verification by the High Level Committee. It is the specific submission of the petitioner that even in the year 2007, she was appointed in the post of Typist under the Schedule Tribe category, the question of sending her community certificate again for verification to the High Level Committee does not arise. The learned counsel for the petitioner would further submit that on account of such motivated reference in forwarding the community certificate to the High Level Committee and issuing appointment order belatedly, the respondent illegally delayed the promotional prospect of the petitioner. However, the first respondent, without taking into consideration of all these aspects have rejected the request of the petitioner. Hence, prayed to interfere with the impugned order.

4.*Per contra*, the learned Special Government Pleader would vehemently contend that though the petitioner was selected during 2009, she was issued with an appointment order only during January 2012 and that the contention of



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the petitioner that she was appointed during 2007 was in temporary post and was not in sanctioned post. Furthermore, for a person to be promoted to the post of Senior Typist, she/he ought to have been in probation for a period of two years on duty within a continuous period of three years. In the case in hand, the petitioner was appointed only during 2009, whereas the crucial date for promotion for Senior Typist was 01.08.2012 and as on the crucial date, the petitioner did not complete the probation. Therefore, she was not eligible for consideration. The learned Special Government Pleader would further submit that the temporary appointment during 2007 cannot be counted for probation, as it was not in the sanctioned post. Hence, prayed to dismiss the present writ petition.

5.I have given my anxious consideration to either side submissions.

6.The main contention put forth by the learned counsel for the petitioner is that she was appointed during 2007 in a temporary post. Therefore, question of denying the promotion to the petitioner on the ground of non completion of probation for a period of two years does not arise. This Court could not accept such contention, as the petitioner appointed in the year 2007, was admittedly in the temporary post. She participated in the TNPSC exam for the recruitment of



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the year 2006-2007 and got selected vide selection list dated 17.07.2009.

Further, though the petitioner was appointed as a temporary Typist during 2007 under the Scheduled Tribe category, the same will in no way bar the Authorities to verify the community certificate by the High Level Committee, when they have some doubt about the community. Further, the mere appointment of the petitioner in a temporary post will in no way confer any right that her appointment is under ST quota.

7. Only during 2009, the petitioner selected from the ST category, and when the Department raised suspicion over the community certificate, they had every prerogative to send the documents for verification before the High Level Committee. In the case in hand, unfortunately there was a delay on the part of the High Level Committee to send their report and ultimately, the petitioner was appointed as a Typist only on 31.01.2012. For the post of Senior Typist, the crucial date for promotion is 01.08.2012 and the said date is not disputed by the learned counsel for the petitioner. Admittedly, on the date of 01.08.2012, the petitioner had not completed two years of probation and the same would be completed only during 2014.



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8. At this juncture, it is appropriate to refer Section 14 of the Special Rules for the Tamil Nadu Secretariat Service, which prescribed qualification of a Senior Typist, that a Typist should have undergone a foundational training for a period of two months and pass the examination at the end of the training for promotion to the post of Senior Typist. Further, Rule 15 of the Special Rules makes it mandatory that the direct recruitee shall be on probation for a total period of two years on duty within a continuous period of three years.

9. Apart from that, under Rule 36A of the General Rules for the Tamil Nadu State and Subordinate Services [Now Section 41(1) of the Tamil Nadu Government Servants [Conditions of Service] Act, 2016, unless a person completes the probation, he/she cannot be considered for promotion. In the case in hand, admittedly, the petitioner did not complete the probation on crucial date. Though the petitioner was selected on 17.07.2009, the same will in no way confer any vested rights to count probation. Similarly, her temporary appointment also cannot be considered for counting the probation, as the probation would only commence from the date of appointment in the regular post. Therefore, this Court is of the firm opinion that on the crucial date, the petitioner did not complete the probation.



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10. It is a well settled principle of law that the promotion is not a fundamental right and for consideration of promotion alone is the fundamental right. In the present case, on the date of the consideration, the petitioner did not have the required qualification, as stipulated under Rule 14 & 15 of the Special Rules of Tamil Nadu Secretariat Service. Therefore, this Court absolutely does not find any infirmity in the rejection order passed by the first respondent.

11. In the result, this writ petition stands dismissed. No costs. Consequently, connected WMPs are also closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

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Department, Secretariat, Chennai-9.

2. The Secretary
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C.KUMARAPPAN J.

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