(2010) 06 MAD CK 0021

In the Madras High Court

Case No : Writ Petition No. 46767 of 2006

V.T. Kanchanamani APPELLANT

Vs

State of Tamilnadu RESPONDENT

Date of Decision : 09-06-2010

Acts Referred:

Citation : (2010) 06 MAD CK 0021

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : M. Ravi, for the Appellant; S. Gopinathan, Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The present writ petition is directed against the impugned order passed by the first respondent, in Government letter No.

22895/T & A.I/99-4 Finance, (T & A.I.) Department dated 13.7.99 and also sought for a consequential direction to promote the petitioner as

Accountant with retrospective effect and also grant consequential benefits.

2. The petitioner was appointed as Typist in the year 1974 by Tamil Nadu Public Service Commission and after her selection she was allotted to

Treasuries and Accounts Department. From the date of joining on 4.10.74, she has satisfactorily performed her service and her services were

regularized with effect from 4.10.1974. Further, she was declared to have satisfactorily completed the period of probation as on 29.10.76.

Subsequently, the petitioner had also passed the Departmental and Special Tests prescribed for promotion to the post of Accountant in May 1977

and thereby she had become eligible for promotion to the post of Accountant.

But, as per the Rule 37 of Tamil Nadu Ministerial Service, Typists

and Steno-Typists selected by the Tamil Nadu Public Service Commission on single paper test shall not be eligible for promotion as Assistant or

for transfer as Junior Assistant, unless they pass the Competitive Examination for Group IV (Full test) conducted by the Tamil Nadu Public Service

Commission.

3. Though the petitioner became fully eligible and qualified for promotion as Assistant in May 1977 itself, she was not promoted in the promotional

post since she did not pass the competitive examination (Full test) conducted by the Tamil Nadu Public Service Commission.

4. On her successful completion of the period of probation in the post of Typist, since the Tamil Nadu Public Service Commission did not conduct

competitive examination (Full test) during the period from 1976 to 1983 and the Tamil Nadu Public Service Commission conducted full test only

on 27.11.1983, the petitioner appeared and came out successfully on 27.11.1983. Therefore, the grievance of the petitioner is that after having

successfully completed two years of probationary period in the year 1976, since the Tamil Nadu Public Service Commission did not come forward

to conduct the competitive examination (Full test) till 1983, the petitioner was unable to get the benefit of promotion.

5. In the above circumstances, the petitioner made a representation in the year 1999 to the first respondent/Government department, praying to

relax Rule 37 of the Tamil Nadu Ministerial Service and to give retrospective effect to her promotion as Assistant with effect from 1977 along with

consequential benefits for the lapse committed by the Tamil Nadu Public Service Commission in not conducting (Full test) from 1976 to 1983.

6. On the other hand, Learned Government Advocate appearing for the respondents would submit that the case of the petitioner has to be

dismissed for more than two reasons. Firstly, though the petitioner was appointed as Typist in the year 1974, the Tamil Nadu Public Service

Commission had conducted (Full test) in the year 1975 i.e. 9.8.75 to 10.8.75 which is after the petitioner joining (T & A.I.) Department as Typist.

The petitioner had miserably failed to take part in the full test conducted by the Tamil Nadu Public Service Commission on 9.8.75 and 10.8.75 and

therefore, the petitioner is not entitled to the benefit of retrospective effect and other consequential benefits the promotion from the year 1977

onwards. Secondly, it was argued that the petitioner after coming out successfully in the full test conducted by the Tamil Nadu Public Service

Commission in the year 1983, she was rightly promoted as Accountant in the year 1984 and after having been promoted in the year 1984, she had

not come forward with any grievance by making a representation to the Department after about nearly 15 years. Since the petitioner made her

representation first time only in the year 1999, there was a delay of 15 years and therefore, her claim is liable to be rejected on ground of latches.

7. Admittedly, the petitioner was appointed as Typist on 04.10.1974. Immediately, after she was appointed as Typist, the Tamil Nadu Public

Service Commission conducted the full test conducted in the year 1975 on 09.08.1975 and 10.08.1975. Therefore, immediately after joining the

post of Typist on 04.10.1974, she had a golden opportunity to appear for full test conducted by the Tamil Nadu Public Service Commission on

09.08.1995 and 10.08.1995 but unfortunately she missed this opportunity. Subsequently, Tamil Nadu Public Service Commission came forward

to conduct the full test only in the year 1983. Even in the year 1983, the petitioner took part in the full test and successfully came out. Therefore,

the department, as token of appreciation of her successful completion of full test, has promoted her to the post of Accountant in the year 1984.

After having appointed to the promotional post of Accountant in the year 1984, as rightly contended by the learned Government Advocate for the

respondent, the petitioner did not even make any representation for about 15 years and only in the year 1999, the petitioner made out a

representation requesting the Department to give the benefit of a promotion with retrospective effect to the petitioner as Accountant with effect

from 1977 on the ground that the Tamil Nadu Public Service Commission failed to conduct (full test) in the year 1977 and put the blame

conveniently on the Tamil Nadu Public Service Commission.

8. Therefore, the present writ petition is liable to be dismissed on the ground of latches, since there is delay of 15 years and also on the part of her

own lapse in not participating the test when it was conducted in the year 1975. Accordingly, the writ petition is dismissed as devoid of merits. No

costs.