

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.33001 of 2015

And

M.P.No.1 of 2015

M.Madhavan

... Petitioner

Vs.

1 Tamil Nadu Civil Supplies
Corporation, Rep by its Managing Director,
10, Thambuswamy Road, Chennai-10.

2 Tamil Nadu Civil Supplies
Corporation, Rep by its Regional Manager,
Tiruvallur Region, Tiruvallur-602 001.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus calling for the records relating to the proceedings No AE 13/PDL 500 / July 2015 - 4 dated 21.9.2015 of the 1st respondent along with the proceedings Na Ka No E1 / 000354 /2015 dated 7.10.15 of the 2nd respondent quash both the orders and consequently direct the 1st respondent to retain the petitioner at Tiruvallur Region itself.

For Petitioner : Mr.S.Venkataraman

For Respondents : Mr.L.P.Shanmugasundaram

Special Government Pleader (Co-op)

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O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner was initially appointed as Seasonal Bill Clerk and became permanent Bill Clerk and since he is a science graduate, he was appointed temporarily as a Junior Quality

Inspector vide proceedings of the first respondent dated 25.01.2010 and he is now working under the control of the second respondent.

3.It is the case of the petitioner that though he was put on probation, he was not put on notice that he should pass the Proficiency Test conducted by the Tamil Nadu Civil Supplies Corporation and also the Departmental Office Manual Test conducted by the Tamil Nadu Public Service Commission. The petitioner has participated in the Proficiency Test and also passed in that, but however, since he was not informed that he has to pass the Departmental Office Manual Test, he did not make an attempt. However, the second respondent has issued a show cause notice on 20.08.2015, pointing out that since the petitioner has not passed the Departmental Office Manual Test within five years and he was called upon to explain as to the reason for non-passing of the test. The petitioner in response to the said notice prayed for time vide his reply dated 14.09.2015 and the second respondent did not consider it and passed the impugned order reverting him to the post of Bill Clerk and challenging the legality of the same, the petitioner has come forward to file this writ petition.

4.The learned counsel appearing for the petitioner would submit that the petitioner in response to the show cause notice dated 20.08.2015 made his reply dated 14.09.2015 merely seeking for time to submit his explanation to the show cause notice and without accepting the same, the impugned order of reversal came to be passed and in all fairness, the second respondent ought to have afforded an opportunity to the petitioner to put forth his explanation for the reason that he has already passed the proficiency test and prays for appropriate orders.

5.Per contra, Mr.L.P.Shanmugasundaram, learned Special Government Pleader (Co-operatives) who accepts notice on behalf of the respondents would submit that the petitioner is under mandate to pass the Departmental Office Manual Test conducted by the Tamil Nadu Public Service Commission within five years and admittedly, he did not pass the said examination and hence, the show cause notice was issued by the second respondent and inspite of the reasonable opportunity given, he did not offer any explanation instead prayed for time and hence, the impugned order came to be passed rightly and prays for dismissal of the writ petition.

6.This Court heard the rival submissions and also perused the materials placed before it.

7.It is the stand of the petitioner that he require some more time to submit his explanation at to the reasons for non-

passing of the Departmental Office Manual Test conducted by the Tamil Nadu Public Service Commission within the stipulated time and it is open to the second respondent either to accept it or to reject it, but instead of it, the second respondent has straight away passed the impugned order. It is also pertinent to point out at this juncture, that the petitioner has passed the proficiency test and according to him, he was not put on notice to pass the Departmental Office Manual Test within the stipulated time.

8.This Court in the light of the above facts and circumstances is of the considered view that the impugned order warrants interference and the matter is to be remanded to the second respondent for fresh consideration and adjudication.

9.Hence, this writ petition is partly allowed and the impugned order dated 07.10.2015 are set aside and the matter is remanded to the second respondent for fresh consideration and adjudication. The petitioner in response to the show cause notice shall offer his explanation within a period of two weeks from the date of receipt of a copy of this order and the second respondent on receipt of the same is directed to consider the said explanation submitted by the petitioner on merits and in accordance with law and pass orders within a period of four weeks thereafter and communicate the decision taken, to the petitioner.

10.It is represented that the petitioner has been reverted by virtue of the impugned order and in the light of the setting aside of the impugned order, the petitioner is to be restored back to the original position and the consequential benefits arising out of the setting aside of the order of reversal, can be decided by the second respondent after consideration of the explanation offered by the petitioner to the show cause notice. No costs. Consequently, the connected miscellaneous petition is also closed.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

- 1 Tamil Nadu Civil Supplies Corporation, Rep by its Managing Director, 10, Thambuswamy Road, Chennai-10.

2 Tamil Nadu Civil Supplies
Corporation, Rep by its Regional Manager,
Tiruvallur Region, Tiruvallur-602 001.

+1 cc to Mr.L.P. Shanmugasundaram, Advocate (sr.56521)

+1 cc to Mr.S.Venkataraman, Advocate (sr.56520)

W.P.No.33001 of 2015
And
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AR-III (co)
cp 16/10/2015



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