

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition Nos.315 of 2013,20144 of 2015
and
M.P.No.1 of 2015 in W.P.No.20144 of 2015

M.Mohan

... Petitioner in both WPs

vs.

1.The District Collector,
Namakkal District.

...Sole Respondent in W.P.No.315/2013
and 2nd respondent in W.P.No.20144/2015

2.The State of Tamil Nadu rep. by
The Principal Secretary to Government,
Revenue Administration,
Fort St.George, Chennai - 600 009.

...1st Respondent in
W.P.No.20144/2015

W.P.No.315 of 2013 is filed under Article 226 of the Constitution of India for the issuance of writ of mandamus, to direct the respondent to regularise the petitioner's services as a Permanent Driver by considering his representation dated 27.11.2011.

W.P.No.20144 of 2015 is filed under Article 226 of the Constitution of India for the issuance of writ of mandamus, to forbear the respondent from in any way filling up the posts of Driver without regularising the services of the petitioner as a Permanent Driver.

For Petitioner : Ms.Selvi George

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

C O M M O N O R D E R

The case of the petitioner is that he studied upto VIII Standard and is holding heavy vehicle licence. He registered his name with District Employment Exchange. He was called for

interview for the post of temporary Driver by the District Collector, Namakkal vide proceedings, dated 15.11.2001.

2. According to the petitioner, he attended the interview and driving test. He got selected and he was appointed as a Driver and posted to Tahsildar Office at Paramathi - Vellore vide proceedings issued by the District Collector, dated 26.11.2001. He has been working as a temporary driver for the past 14 years, but his services were not regularised.

3. While so, the District Collector sent proposal in ROC.10217/2011/A5, dated 04.01.2012, to Principal Secretary and Commissioner of Revenue Administration, Chennai, recommending regularisation of the service of the petitioner. However no order has been passed on the said proposal. Hence, the petitioner filed W.P.No.315 of 2013 seeking for a direction to the respondent to regularise his service as permanent Driver by considering his representation dated 27.11.2011.

4. A counter affidavit is filed by the District Collector in W.P.No.315 of 2013.

5. It is useful to extract the following passage found in paragraph 3 of the counter affidavit filed by the District Collector:-

"3.In G.O.Ms.No.22 P & AR dt.28.02.2006 wherein it has been stated that the services of the employees working in various Government Offices/Departments on daily wages basis who have completed more than 10 years of service as on 1.1.2006 will be regularized. Accordingly, the case of the writ petitioner comes in the above category as he has completed 10 years of continuous service without any break on 26.11.2001. Proposals were sent to the Principal Secretary and Commissioner of Revenue Administration, Chennai in this office Roc.10217/2011/A5, dated 4.1.2012 (copy enclosed) and orders are awaited."

6. In the mean time, the Government issued G.O.1(D) No.279 Revenue Service 8(2) Department, dated 23.06.2015 to fill up 142 posts of Drivers (71 posts for 2015-16 and 71 posts for 2016-2017) by direct recruitment through Employment Exchange. According to the petitioner, there are 4 posts of Driver for Namakkal District. Hence, the petitioner has come up with W.P.No.20144 of 2015 seeking to forbear the respondents in any way filling up the posts of Driver without regularising his services as permanent Driver.

7. Heard both sides.

8. In view of the counter affidavit filed by the District Collector, Namakkal, I am of the view that a direction may be issued to the first respondent to pass orders on the proposal, dated 04.01.2012 sent by the District Collector.

9. The learned Special Government Pleader has submitted that the proposal will be considered as per Rules that are in existence as on today.

10. In view of the above, a direction is issued to the first respondent to consider and pass orders on the proposal, dated 04.01.2012 of the District Collector on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order and a further direction is issued not to fill one post of Driver in Namakkal District, pursuant to G.O.1(D) No.279 Revenue Service 8(2) Department, dated 23.06.2015, until orders are passed on the proposal.

The writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Secretary to Government,
The State of Tamil Nadu
Revenue Administration,
Fort St.George, Chennai - 600 009.

2.The District Collector,
Namakkal District.

+lcc to Ms.Selvi George, Advocate, S.R.No.37146

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20144 of 2015

JSV(CO)
CA(11/08/2015)