

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.11.2016

CORAM

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO. 39473 OF 2016

R.Murugan

...Petitioner

- Vs -

1. The Registrar General
High Court, Madras.
2. The Principal District & Sessions Judge
Tiruvallur, Tiruvallur District.
3. The State of Tamil Nadu
rep. By the Secretary to Govt.
Law & Justice Department
Fort St. George, Chennai 600 009.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the respondents 1 and 2 to consider the petitioner's representation dated 14.9.2016 for appointment as Examiner or Reader or Senior Bailiff or Record Clerk or Xerox Operator in the existing vacancies.

For Petitioner : Mr. V.Selvaraj

For Respondents : Mr. R.Vijayakumar for RR-1 & 2
Mr. P.S.Sivashanmuga Sundaram,
SGP for R-3

ORDER

(DELIVERED BY HULUVADI G.RAMESH, J.)

It is the case of the petitioner that his name was sponsored by the Employment Exchange, Tiruvallur for employment as Typist in the District Court, Tiruvallur and he was appointed as Typist by the proceedings of the Principal District Judge, Tiruvallur, dated 24.2.2013 under Rule 10 (a)(i). However, vide proceedings

of the Principal District Judge dated 30.4.2014, the petitioner was ousted from service on 8.5.2014. It is the submission of the petitioner that there are several vacancies lying vacant in the cadre of Examiner, Reader, Senior Bailiff and Record Clerk in the District of Tiruvallur. Therefore, the petitioner gave representations including the one dated 14.9.2016. In similar circumstances, persons similarly placed were ordered to be re-employed by this Court either as Examiner or Reader or Senior Bailiff or Record Clerk on regular basis. It is further submitted by the petitioner that he is aged 33 years and a physically challenged person without employment and since he has been ousted from service, without being absorbed in anyone of the regular posts, left with no other alternative he has approached this Court by filing this petition.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3. It is not in dispute that the petitioner has been appointed under Rule 10 (a) (i) and, thereafter, was ousted from service after a span of one year, though he has been sponsored by the employment exchange. Once a petitioner has not been appointed against a regular vacancy, he cannot seek for regularisation of his post as such process has been deprecated by the Supreme Court in the case of Umadevi (3) - Vs - State of Karnataka (2006 (4) SCC 1). In the said judgment, the Supreme Court has categorically held that persons should go through a process of selection by applying for the posts notified and should be selected following a procedure on being found fit. Barring the above process, Supreme Court has ruled that any appointments would be illegal and that back door entry is impermissible.

4. In the case on hand, the petitioner has appointed only on temporary basis and after a particular period, he has been ousted from service. The petitioner, not having been posted against any cadre post cannot claim as a matter of right to be appointed against any vacancy that may be available. Therefore, this Court is not inclined to interfere with the order passed by the 2nd respondent. However, as and when vacancies are notified for filling up of the above posts, it is open to the petitioner to compete in the category that is applicable to him in the usual course and on such application being made, it is for the respondent authority to consider the case of the petitioner for appointment, subject to the petitioner satisfying the requirements, without in any way being influenced by any of the observations made above.

5. Accordingly, this writ petition is disposed of with the aforesaid observation. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Registrar General
High Court, Madras.
2. The Principal District & Sessions Judge
Tiruvallur, Tiruvallur District.
3. The Secretary to Government
Law & Justice Department
Government of Tamil Nadu
Fort St. George, Chennai 600 009.

+1cc to Mr. V.Selvaraj, Advocate, S.R.No. 68519

+1cc to the Government Pleader, S.R.No. 69712

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AD (CO)
PSI (28/12/2016)