

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.6243 of 2014

and

M.P.No.1 of 2014

G.Srinivasan

...Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Industries & Commerce,
Secretariat,
Chennai-600 009.
- 2.The Commissioner & Director,
Department of Industries & Commerce,
Mandavelipakkam,
Chennai-600 028.
- 3.The Joint Director (Establishment)
Department of Industries & Commerce,
Mandavelipakkam,
Chennai-600 028.
- 4.The General Manager,
District Industries Centre,
Department of Industries & Commerce,
141, College Road,
Tirupur,
Pin-641 602.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, restraining the respondents from filling up the post of Driver in the office of the 4th respondent in pursuant to the interview held on 25.02.2014 as per the proceedings of the 4th respondent in Na.Ka.No.3099/A/2013 dated 07.02.2014 and consequently direct the respondents to consider the case of the petitioner for appointment to the post of Driver in the office of the 4th respondent, as per their letter of the 2nd respondent in proceeding Na.Ka.No.5552/Po.Ma.Tho.4/2011, dated 02.06.2011.

For Petitioner : Mr.R.Rengaramanujam
For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

The relief sought for in this writ petition is to restrain the respondents from filling up the post of Driver in the office of the 4th respondent pursuant to the interview held on 25.02.2014 and consequently direct the respondents to consider the case of the writ petitioner for appointment to the post of Driver.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner has been appointed as an Office Assistant in Khadi & Village Industries Board on compassionate ground on 15.12.1997. This apart, the writ petitioner is possessing a valid driving license and accordingly claims that he is fully qualified for the post of Driver. This apart, the learned counsel for the petitioner states that the writ petitioner was directed to perform the duties and responsibilities of a Driver and accordingly he is performing the job of the Driver for about two years from 2010 onwards. In view of the fact that the petitioner was directed to perform the duties of a Driver, the writ petitioner made representation to the respondents to appoint him to the post of Driver. However, the respondents issued a reply in proceedings dated 02.06.2011 in Na.Ka.No.5552/Po.Ma.Tho4/2011 stating that the petitioner was appointed as Office Assistant and after the declaration of probation, his claim for appointment by way of transfer of service to the post of Driver will be considered. In this regard, his name will be considered for inclusion in the list of eligible in-service candidates for appointment to the post of Driver. The learned counsel states that thereafter the respondents have not considered the name of the petitioner. Contrarily, the respondent issued notification and filled up the post of Driver by way of direct recruitment. The in-service candidates working in Grade-IV service were not considered for appointment to the post of Driver by way of transfer of service. Thus, the grievances of the writ petitioner has not been redressed by the respondent till today and the writ petitioner is being continued in the post of Office Assistant.

3.This Court is of the view that, appointment can never be claimed as a matter of right. The writ petitioner though appointed in the post of Office Assistant and performing the post of Driver temporarily as per the oral instructions of the

higher officials will not constitute a claim for the post of Driver. The post of Driver to be filled up only by following the rules in force. As a matter of fact, all public posts to be filled up only under the constitutional scheme by following the recruitment rules in force. Authorities competent in this regard are bound to follow the legal principles enshrined in the Constitution of India. Equal opportunity in public appointment is constitutional mandate and all the eligible citizens of this great nation are to be provided with an opportunity to participate in the open competition process for securing any public employment in this great nation. The State/Union is bound by the principles enunciated in this regard and the recruitment rules in force framed by the competent authorities to fill up the public posts.

4. In the case on hand, though the learned counsel for the writ petitioner is able to substantiate that the writ petitioner is serving as Driver at the instructions of the higher officials temporarily for a period of two years, the writ petitioner was not appointed in the post of Driver and he is continuing in the post of Office Assistant till today. Further, the respondent have informed the writ petitioner that his name will be considered whenever the list of in-service candidates are considered in accordance with seniority. Thus, no further adjudication on merits and on the grounds raised in this writ petition needs to be considered. It is left open to the writ petitioner to submit his representation if any, to the competent authorities and the competent authorities are at liberty to consider the same in accordance with rules in force.

5. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
The State of Tamil Nadu,
Department of Industries & Commerce,
Secretariat, Chennai-600 009.

2.The Commissioner & Director,
Department of Industries & Commerce,
Mandavelipakkam,
Chennai-600 028.

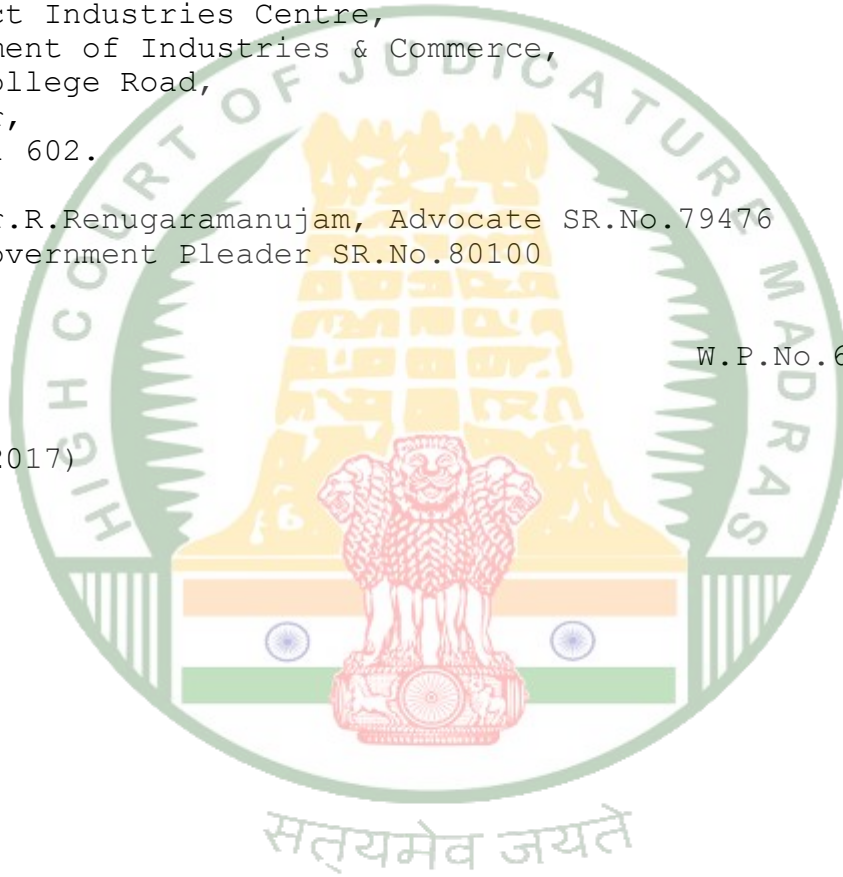
3.The Joint Director (Establishment)
Department of Industries & Commerce,
Mandavelipakkam,
Chennai-600 028.

4.The General Manager,
District Industries Centre,
Department of Industries & Commerce,
141, College Road,
Tirupur,
Pin-641 602.

+1cc to Mr.R.Renugaramanujam, Advocate SR.No.79476
+1cc to Government Pleader SR.No.80100

W.P.No.6243 of 2014

SR(CO)
GN(24/11/2017)



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