

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2017

CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN

W.P.No.535 of 2017

P.Suresh

...Petitioner

-Vs-

1. The State of Tamil Nadu,
rep. by its Principal Secretary to Government,
Co-operation, Food & Consumer Protection Department,
Secretariat, Fort St.George,
Chennai - 600 009.
 2. The Commissioner of Civil Supplied & Consumer Protection,
Ezhilagam, Chepauk,
Chennai - 600 005.
 3. The Deputy Commissioner -I,
Civil Supplies & Consumer Protection Department,
Ezhilagam, Chepauk,
Chennai - 600 005.
- ...Respondents

This petition is filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus to direct the respondents to reinstate the petitioner into service as Assistant in Civil Supplies & Consumer Protection department with continuity of service, monetary & service benefits and declare the petitioner's probation in the said post by considering his Appeal dated 19.10.2015 followed by his representations dated 15.04.2016 and 24.10.2016. within a time frame to be fixed by this Court.

For Petitioner : Mr.L.S.M.Hasan Fizal
For Respondents: Mr.K.Dhananjayan
Special Government Pleader.

O R D E R

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

2. Mr.K.Dhananjayan, learned Special Government Pleader accepts notice on behalf of respondents 1 to 3.

3. The petitioner appeared in the Combined Subordinate Service Examination-I of TNPSC conducted in 2008 in the open category for Direct Recruitment for the post of Assistant and was awaiting for the result. In the meanwhile, the petitioner appeared in the competitive Examination of TNPSC conducted in 2009 for the post of Typist and was selected as a Typist and allotted in the Revenue Department in Namakkal District Unit, and subsequently, he was selected to the post of Assistant and he was allotted to the Civil Supplies and Consumer Protection Department and accordingly, he was relieved from Namakkal District Revenue Unit from the post of Typist and on 14.07.2010, he joined in the post of Assistant in Civil Supplies and Consumer Protection Department in "D" Section in the office of the 2nd respondent. The service of the petitioner as Assistant was also regularised from the date of entry into service i.e., from 14.07.2010. The petitioner also passed the departmental test in Tamil Nadu Government Office Manual / District office Manual (DOM) in May 2011 and also successfully undergone training in Government Officers Training Institute Bhavanisagar between 04.06.2012 and 17.07.2012 and also passed the Department's Revenue Test Part I Paper I & II as well as other departmental tests. The petitioner further states that during 2010-2011, the 2nd respondent called for willingness of the staff of Civil Supplies & Consumer Protection Department to be permanently absorbed in Revenue Department. Accordingly, the petitioner has expressed his willingness. Despite that, he was not sent to the Revenue Department citing staff crunch. Therefore, the petitioner continues to work in the Civil Supplies & Consumer Protection Department. The petitioner was diagnosed stones in kidney and also he undergone operation for kidney stones in June 2015 and he continues to be under medical treatment. The 3rd respondent issued show cause notice dated 25.11.2013 calling upon for explanation for not clearing the Department Test in Accounts and the period of probation was extended till 16.09.2015. The petitioner, in the interregnum period, appeared for the Department Account test for Subordinate Officers Part I and II in May 2011, May 2012, December 2012, May 2013, December 2013, May 2014, December 2014 and May 2015 and could not clear the same on account of his illness. The petitioner also made a representation in this regard and he was under the bonafide impression that his representation will be kindly considered. However, the 3rd respondent, by communication dated 05.10.2015 rejected the petitioner's representations dated 29.09.2015 and 30.09.2015 and informed that there is no provision of extension of period of probation. Vide order dated 05.10.2015, the petitioner was discharged from service with effect from 05.10.2015 citing Rule 26 of the Tamilnadu State & Subordinate Services Rules. Subsequently, the petitioner was

also served with the show cause notice on 28.09.2015 and was forcibly made to affix his signature. The petitioner, challenging the order of discharge, filed an appeal dated 19.10.2015 before the 1st respondent under Tamil Nadu State & Subordinate Service Rules. The petitioner would further state that he cleared the account test for Subordinate Officers Part I, held in December 2015 and as such, the prayer for reinstatement in service, may be positively considered. Therefore, he came forward to file this writ petition.

4. Heard the submission of the learned counsel for the petitioner and Mr.K.Dhananjayan, learned Special Government Pleader who accepts notice on behalf of the respondents.

5. Though the petitioner prays for a larger relief, this Court, in the light of the above facts and circumstances, without going into the merits of the claim projected by the petitioner, directs the 1st respondent to consider and dispose of the petitioner's appeal/representations dated 19.10.2015, 15.04.2016 and 24.10.2015 on merits and in accordance with law and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. The writ petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vs

To

1. The Principal Secretary to Government,
Co-operation, Food & Consumer Protection Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Commissioner of Civil Supplies & Consumer Protection,
Ezhilagam, Chepauk,
Chennai - 600 005.
3. The Deputy Commissioner -I,
Civil Supplies & Consumer Protection Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

+1 cc to Government Pleader High Court Madras
sr 2216
+1 cc to M/s.L.S.M.Hasan Fizal Advocate sr 1834

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