

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.10.2017

CORAM

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

W.P. No.11745 of 2014 &
M.P. No.1 of 2014

T. Narayanasamy

...Petitioner

Vs

1. The Secretary to Government,
Personnel Administrative Reforms Department,
Fort-St. George, Chennai - 600 009.
2. The Secretary to Government,
Revenue Department,
Fort. St. George, Chennai - 600 009. ...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus or any other appropriate writ order or direction in the nature of writ, directing the 2nd respondent to consider and pass orders on the petitioner's representation dated 28.02.2014.

For Petitioner : Mr. A. Sivaji

For Respondents: Mr. R. Vijaya Kumar (For R1 & R2)
Addl.Government Pleader

O R D E R

The relief sought for in this Writ petition is for a direction to direct the 2nd respondent to consider the representation submitted by the Writ petitioner on 28.02.2014.

2. Even for issuing a direction to consider the representation, the writ petitioner has to establish his legal right so as to entertain the writ petition. The factual matrix is required to be considered in this writ petition that the writ petitioner was appointed as Junior Assistant on consolidated pay of Rs.4000 per month by the District Collector on 09.07.2003. Accordingly, he continued as a Junior Assistant on consolidated pay. Subsequently, the pay was increased to Rs. 5000 per month.

3.The learned Counsel appearing for the writ petitioner

submits that the writ petitioner has served more than 10 years as Junior Assistant on consolidated pay and therefore, he is entitled to be regularized in accordance with G.O. Ms.No.22 dated 28.02.2006. The post of Junior Assistant is coming under the purview of the Tamil Nadu Public Service Commission and the process of selection has to be conducted in accordance with the recruitment rules in force and under the constitutional schemes. The post of Junior Assistant can be filled only through open competitive process by providing equal opportunities to all eligible citizen of our great nation. The appointment or regularization cannot be granted by way of issuing a direction in a Writ petition only based on the length of services rendered by the writ petitioner as Junior Assistant on consolidated pay.

4.This apart, the learned Additional Government Pleader appearing on behalf of the respondent also states that the said G.O.Ms.No.22 had been withdrawn by the Government and the revised orders were passed in this regard. Further, the post of Junior Assistant being categorized under the purview of Tamil Nadu Public Service Commission and regular recruitment process under the rules has to be undertaken for filling up the post of Junior Assistant in all the department in the State.

5.In this view of the matters, the prayer as such sought for can not be considered and further this court cannot issue any direction to consider the representation by way of any recommendation in the absence of establishing any legal right. The semblance of legal right to be established is a pre-condition for entertaining any writ proceedings under Article 226 of the Constitutional of India. Thus, other grounds raised in this writ petition require no further consideration.

Thus, the writ petition stands dismissed. Consequently connected miscellaneous petition is closed. No Costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

lbm

To:

1. The Secretary to Government,
Personnel Administrative Reforms Department,
Fort-St. George, Chennai - 600 009.

2. The Secretary to Government,
Revenue Department,
Fort. St. George, Chennai - 600 009.

+1cc to Mr. A. Sivaji, Advocate in sr.no.73144

W.P. No. 11745 of 2014

NRJK(CO)
NR 07/11/2017



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