

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.10.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.26157 of 2017

J.Gajapathy

Petitioner

Versus

1 Union of India
rep. by the Senior Superintendent of
Post Offices
Chennai City North Division
Chennai 600 008

2 The Sub Postmaster
Koyambedu Sub Post Office
Chennai 600 107

3 The Registrar
Central Administrative Tribunal
Chennai 600 104

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling the records pertaining to the order of the 3rd respondent Tribunal made in OA. No.1153 of 2013 dated 17.6.2015 and quash the same consequent to direct the respondents 1 & 2 to absorb the petitioner as Sweeper or MTS on regular basis with all consequential benefit.

For petitioner : Mr.R.Malaichamy

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the petitioner at the threshold.

2. It appears that the relief sought for by the appellant/petitioner is absorption to the cadre of Group-D or as Sweeper on regular basis. Pursuant to the counter filed, the Central Administrative Tribunal has appreciated the stand of the Government that the claim of the application for absorption in MTS cadre treating him as Casual Labourer as per certain circular from the Directorate and hence, observed that the applicant can compete against the unfilled vacancies of 2009 to 2013 and 25% of the vacancies for the years 2012 and 2013 as and when notified through open market. The Tribunal has also observed the stand of the Government that as and when vacancies are notified, the applicant will be informed promptly by them so that he can also apply for the same.

3. We do not want to deal with the decision of the Tribunal in view of the legal position as held in SCHOOL EDUCATION DEPARTMENT, CHENNAI v. R.GOVINDASWAMY ((2014) 4 SCC 769), relying on the decision of the decision in STATE OF KARNATAKA v. UMADEVI ((2006) 4 SCC 1), wherein, in a similar situation, viz., part-time Sweepers of the appellant-Bank, who had been working for more than 10 years, sought for absorption, the Apex Court has held that the employees were not entitled to regularisation even when they had put in long service because they were not working against sanctioned posts and sympathy and sentiment cannot be valid grounds for regularisation of service in absence of legal right.

4. Such being the case, we do not find any reason to interfere with the finding rendered by the Tribunal in view of the well settled law by the Apex Court in the above decisions, especially, when it is clearly indicated by the Tribunal that the Government had submitted that as and when the vacancies are notified, the applicant will be informed promptly. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 The Senior Superintendent of
Post Offices, Union of India,
Chennai City North Division
Chennai 600 008
- 2 The Sub Postmaster
Koyambedu Sub Post Office
Chennai 600 107
- 3 The Registrar
Central Administrative Tribunal
Chennai 600 104

+1cc to Mr.R.MALAICHAMY Advocate, S.R.No. 71659

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MSM (CO)
TR(22/11/2017)



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