



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2017

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THE HON'BLE MR.JUSTICE S.VAIDYANATHANW.P. (MD) No.2921 of 2017andW.M.P (MD) No.2368 of 2017

R.Ashok Kumar
Shift Engineer,
Tamil Nadu Civil Supplies Corporation,
Modern Rice Mill, Manamadurai,
Sivagangai Region,
Sivagangai District.

... Petitioner

Vs.

1. The State of Tamil Nadu,
represented by its Principal Secretary,
Food Ministry Department,
Fort.St.George,
Chennai - 600 009.

2. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Kilpauk, Chennai - 600 010.

3. The General Manager(Admn.),
Tamil Nadu Civil Supplies Corporation,
Kilpauk, Chennai - 600 010.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Se.Mu.Aanai No.A/E7/2710/2017, dated 31.01.2017 on the file of the second respondent and to quash the same as illegal and consequently to direct the respondents to consider the Petitioner for appointment to the post of Assistant Manager(General) through recruitment by transfer in the available vacancies within the time stipulated by this Court.

For Petitioner :Mr.S.Louis
for M/s.T.Lajapathi Roy

For Respondent-1 :Mr.A.K.Baskarapandian
Special Govt.Pleader

For Respondents :Mr.P.Seetharaman
2 and 3

**ORDER**

This Writ Petition has been filed, praying for issuance of a writ of Certiorari Mandamus calling for the records pertaining to the impugned order in Se.Mu.Aanai No.A/E7/2710/2017, dated 31.01.2017 on the file of the second respondent and to quash the same as illegal and consequently to direct the respondents to consider the Petitioner for appointment to the post of Assistant Manager(General) through recruitment by transfer in the available vacancies within the time stipulated by this Court.

2.Mr.A.K.Baskarapandian, learned Special Government Pleader takes notice for the first respondent and Mr.P.Seetharaman, learned counsel takes notice for the respondents 2 and 3. By consent of both parties, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3.The Petitioner has submitted that he was appointed in the year 2007 as Shift Engineer sponsored through Employment Exchange and that the Petitioner possessed the requisite qualification of MBA in Marketing and he was not selected to the post of Assistant Manager(Administration). He submitted that the Petitioner is having the Bachelors degree In Computer Application, apart from MBA and the said qualification was entered in the service records.

4.According to the Petitioner, he has given representation to consider his case for promotion to the post of Assistant Manager (Administration), when others have been given promotion to the post of Assistant Manager(Administration).since the process for inducting for appointment to the post of Assistant Manager (Administration) started, the Petitioner moved a Writ Petition before this Court and this Court directed the respondents to consider the request of the Petitioner by consider his representation dated 20.10.2016 within a period of two weeks from the date of receipt of a copy of this order. He submitted that the second respondent passed the impugned order rejecting the request of the Petitioner on the ground that the Petitioner's request can be considered in the next recruitment process to the post of Assistant Manager(Administration).The Petitioner would contend that there are vacancies in Coimbatore, Nagercoil and Theni for the aforesaid post and that the post at Coimbatore is still vacant. According to him, previous direct recruitment process has been completed and that the Petitioner is eligible to be appointed to the said post as he has fulfilled the requisite qualification. The Petitioner has submitted that already the recruitment process is over and there is no chance of filling up the vacancies in the near future and now the Petitioner is having

<https://hcdirectrecruitment.gov.in/services>

representation for the above said post and hence, his case may be considered for the said post.



5.The respondent would submit that the Petitioner would be eligible only in the direct recruitment category and the Petitioner cannot seek for appointment by transfer to the post of Assistant Manager (general) and the rules are silent in this regard. He further submitted that since the Petitioner has already been an employee, as and when next recruitment took place, the Petitioner would be eligible to compete with the others along with public. He would further submit that even though the Petitioner possessed the requisite qualification and that the Petitioner has already in an earlier occasion has requested for the same relief and his request has been turned down as the Petitioner did not possess MBA at the relevant point of time and that now the Petitioner is possessing MBA qualification. It is open to him to participate with others in the commencing selection/recruitment process.

6.The aforesaid facts are not in dispute and admittedly fresh recruitment to the post of Assistant Manager (General) is only by way of direct recruitment and the Petitioner cannot seek for posting to the said post based on transfer. Appointment by transfer is silent and it is open to the Petitioner to compete with others and if found eligible, he shall be appointed to the said post. Further a complete relaxation has been given with regard to the age, as he is an in-service candidate. Merely because there is a vacancy and that the Petitioner is now qualified for the post of Assistant Manager (General) for appointment by transfer cannot be acceded.

7.Accordingly, the Writ Petition is disposed of with liberty to the Petitioner to compete along with others as and when direct recruitment/selection to the post of Assistant Manager (General) takes place; his case can be considered in accordance with the rules and not based on the request made by the Petitioner that he should be appointed by way of transfer, unless the rules are amended. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assitant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To:

1. The Principal Secretary,
Government of Tamil Nadu,
Public Ministry Department,
Fort. St. George,
Chennai - 600 009.



2. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Kilpauk, Chennai - 600 010.

WEB COPY

3. The General Manager (Admn.),
Tamil Nadu Civil Supplies Corporation,
Kilpauk, Chennai - 600 010.

+1cc to M/s.P.SEETHARAMAN, Advocate, in SR No. 9516
+1cc to Special Government Pleader, Sr.No. 9699

VSN

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and
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