

In the High Court of Judicature at Madras

Dated: 01.08.2018

Coram:

The Hon'ble Mr.Justice M.VENUGOPAL
and
The Hon'ble Mr.Justice M.NIRMAL KUMAR

W.P.No.13664 of 2018

N.Rajkumar

.. Petitioner

Vs.

The Registrar General,
High Court of Madras,
Chennai-600 104.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for a writ of Mandamus, directing the Respondent to re-employ the Petitioner for the post of System Analyst by considering the representation of the Petitioner dated 22.03.2018.

For Petitioner : Mr.R.Arun Dattan
For Respondent : Mr.S.Thangavel

O R D E R

[Order of the Court was made by
M.VENUGOPAL, J.]

Heard Mr.R.Arun Dattan, Learned counsel for the Petitioner and Mr.S.Thangavel, Learned counsel for the Respondent.

2.According to the Petitioner, he had completed Bachelor of Engineering (B.E.) in Computer Science and Master of Business Administration (MBA) in System Management. He was appointed by the Respondent and posted as System Officer based on the scheme of E-Courts project in computerization of Sub Ordinate Courts. He was allotted to work in Principal District Court, Tirunelveli as per ROC.No.10/2009/Comp, dated 03.03.2009 of the Registrar (I.T) of Madras High Court. As a matter of fact, the appointment was made by adopting the due process of selection and on merit basis.

3.Although the Petitioner initially was appointed on contract basis latter, he came under the direct control of the

Hon'ble Madras High Court and salary was paid by the Hon'ble High Court through the Principal District Judge concerned from 01.05.2011 onwards. In fact, he was appointed as System Officer in Tiruvannamalai District on a consolidated pay of Rs.11,100/- as per proceedings in ROC.No.10/2009/Comp3, dated 28.04.2011 of Registrar (Administration), Madras High Court. In the said post, he served from 11.03.2009 to 08.08.2011 and discharged his duties and responsibilities to the fullest satisfaction of his superiors.

4.At this stage, the Learned counsel for the Petitioner submits that individuals who worked on consolidated pay filed WP.No.21135 of 2015 (Kannan & 66 others) seeking a prayer to absorb them in that post as System Officer on regular time scale of pay instead of consolidated pay. This Court on 21.12.2017 was pleased to issue direction in W.P.No.21135 of 2015 to the authorities to take necessary action in the matter of absorption of the consolidated Senior System Officer, System Officer and System Assistant on a regular time scale of pay. In this regard, the Registrar General of this Court had sent a proposal to the Government of Tamil Nadu.

5.Advancing his arguments, the Learned counsel for the Petitioner proceeds to take a plea that the State Government issued orders in E-Courts projects by sanctioning 102 posts of Technical Manpower on a regular time scale of pay to the Madras High Court and Sub Ordinate Courts as per G.O.Ms.694, Home (Cts-III) Department, dated 30.09.2016. In that Government Order, the name of the post of System Officer has been re-designated as 'System Analyst' also prescribing qualification and scale of pay. Indeed, the Service Rules governing the said posts, issued viz., The Madras High Court Technical Manpower (Appointment 85 Conditions of Service) Rules, 2017.

6.Expatiating his submissions, the Learned counsel for the Petitioner contends that the Respondent had issued ROC.No.30/2017-CON-ESH-1, dated 19.12.2017, in and by which the individuals working in the above posts on contractual basis have been absorbed to the re-designated posts with effect from 27.06.2017 on regular time scale of pay by placing in the Revised Levels of Pay as per the Tamil Nadu Revised Pay Rules, 2017.

7.The primordial stand of the Petitioner is that although he is entitled to get the benefits of this absorption along with the similarly situated individuals since his name was left over because of the fact that he was not in service on the date of the said Government Order. Further, it is projected on the side of the Petitioner that he is similarly placed and identically situated because of the reason that he worked as System Officer

on contract basis on consolidated pay as on 27.06.2017, he should have been absorbed to the re-designated post of System Analyst which was done in the case of others. In reality, the Petitioner had lost the golden opportunity in getting absorption in the post which he had worked. Therefore, his service career is very much affected.

8. At this juncture, the Learned counsel for the Petitioner brings it to the notice of this Court that one Mr.M.E.Meeraa Krishnan, who served as System Officer on contract basis like that of the Petitioner and along with him, had not rejoined in the post of System Assistant. However, on his representation, the order was issued by appointing him as System Assistant as per ROC.No.10/2009/Comp3, dated 16.12.2013. Therefore, it is represented on behalf of the Petitioner that similar benefits of absorption may also be extended to the Petitioner in the re-designated post of System Analyst on sympathetic ground.

9. Lastly, it is the contention of the Learned counsel for the Petitioner that the Petitioner had addressed a representation to the Respondent on 22.03.2018 seeking favourable order in the matter of 're-employment' as a fresh entrant for the post of System Analyst, the then called as System Officer in which post, he had worked as 'System Officer' on consolidated pay. Since his representation is pending, he has filed the present Writ Petition.

10. Per contra, it is the submission of the Learned counsel for the Respondent that based on the representation of the Petitioner, on earlier occasion, requesting for redeployment, the Respondent had considered the matter favourably and he was appointed as System Officer to Tiruvannamalai District subject to the conditions specified therein (vide ROC.No.10/2009/Comp3) dated 30.03.2012. Further, he was directed to join duty on 02.04.2012 before the Principal District Judge, Tiruvannamalai, failing which, he was further informed that his appointment shall stand cancelled without any further intimation.

11. The Learned counsel for the Respondent draws the attention of this Court to the communication of the learned District Judge, Tiruvannamalai addressed to the Respondent in Dis.No.2706/2012 dated 11.05.2012, whereby and where under, it was informed that the Petitioner, who was working earlier as System Officer in Tiruvannamalai District, who was redeployed, had not joined duty. Continuing further, with reference to the representations of the Petitioner dated 05.02.2018 and 08.02.2018 in the subject matter in issue, he was informed that his request was considered and it was found as not feasible, which fact was also communicated to him in ROC.No.11353/2018/Comp3, dated 23.04.2018 and the same was received and acknowledged by him on 24.04.2018.

12. Moreover, the Learned counsel for the Respondent brings it to the notice of this Court that the ingredients of Rule 10 (j) of The Madras High Court Technical Manpower (Appointment & Conditions of Service) Rules, 2017 enjoins as under:-

"The personnel, who were not recruited on contractual basis as per the guidelines laid down in the National Policy and Action Plan for the implementation of Information and Communication Technology in the Indian Judiciary as prescribed by the e-Committee, Supreme Court of India, New Delhi (1st August, 2005) and the personnel, who are not in service as on the date of commencement of these Rules, in any category of post, are not entitled for absorption."

As per the aforesaid Rule, the Petitioner is not entitled to lay a claim for 'Re-entry' into service as 'System Analyst' (as sought by him in his representation dated 22.03.2018) because of the fact that as on date of coming into force of the said Rules on 27.06.2017, admittedly, he was not in service. As such, it is contended on behalf of the Respondent that the Petitioner is not entitled to seek the relief sought for by him in the present Writ Petition.

13. Be it noted that the Petitioner in para 5 of his Writ Affidavit had averred inter-alia that the Government had issued Order in e-Courts Project by sanctioning 102 Posts of Technical Manpower on a Regular Time Scale of Pay for the High Court of Madras and Subordinate Courts as per G.O.(Ms) No.694, Home (Cts-III) Department dated 30.09.2016. In fact, in the said Government Order, the name of the post of "System Officer" was re-designated as "System Analyst" also prescribing qualification and pay of scale. Accordingly, this Court framed rules called "The Madras High Court Technical Manpower (Appointment & Conditions of Service) Rules, 2017" to regulate the appointment and other service conditions of a Technical Manpower post created under the National Policy and Action Plan for implementation of Information and Communication Technology in the Indian Judiciary prepared by the E-Committee of the Hon'ble Supreme Court of India dated 01.08.2005. Pursuant to the aforesaid Government Order and Rules 2017, the Registrar General of Madras High Court issued a Memorandum in ROC.No.30/2017-CON-ESH-1 dated 19.12.2017, in and by which, the individuals working in the above posts on contractual basis were absorbed to the re-designated post with effect from 27.06.2017 on Regular Time Scale of Pay by placing in the Revised Levels of Pay as per the Tamil Nadu Revised Pay Rules, 2017. Because of the fact that the Petitioner was not in service on the date of aforementioned G.O.(Ms) No.694, Home (Cts-III) Department, dated 30.09.2016, his name was left over.

14.Be that as it may, on a careful consideration of the respective contentions and also this Court considering the fact that the Petitioner's representations dated 05.02.2018 and 08.02.2018 addressed to this Court were suitably replied by this Court as per ROC.No.11353/2018/Comp3 dated 23.04.2018 to the effect that his request was considered and it was found not feasible and also this Court, taking into account of the attendant facts and circumstances of the instant case in an encircling fashion, comes to an irresistible and inevitable conclusion that the Petitioner is not entitled to claim the relief as sought for by him in the Writ Petition, inasmuch as he was not in service as on date of coming into force of "The Madras High Court Technical Manpower (Appointment & Conditions of Service) Rules, 2017" viz., on 27.06.2017. Looking at from any angle, the Writ Petition is devoid of merits.

15.In fine, the Writ Petition is dismissed, leaving the parties to bear their own costs.

Sd/-

Assistant Registrar (Audit)

//True Copy//

Sub Assistant Registrar

To
The Registrar General,
High Court of Madras,
Chennai-600 104.

+1cc to Mr.R.ARUN DETTAN, Advocate, S.R.No.52940

W.P.No.13664 of 2018

CNR (CO)
TR(11/08/2018)

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