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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2018

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

W.P. (MD) No.14572 of 2013

and

M.P (MD) No.1 of 2013

P.Marakathasundaram

... Petitioner

-vs-

1. Regional Manager,
Regional Office,
Central Bank of India,
1st Floor, Raja Muthaiya Mandram,
Madurai-20.

2. Branch Manager,
Central Bank of India,
New Victoria Arch,
135, South Car Street,
Main Road,
Ambasamudram-627 401,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the Respondents to consider the name of the petitioner and appoint the petitioner to the post of "Safai Karmachari-cum-sub staff" and / or Sub staff on a regular basis with effect from the date on which the other candidates were appointed and to pay all the consequential arrears arising thereon and granting such other and further relief.

For Petitioner

: Mr.M.Kannan

For Respondents

: Mr.T.M.Hariharan

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to consider the name of the petitioner and appoint the petitioner to the post of "Safai Karmachari-cum-sub staff" and / or Sub staff on a regular basis with effect from the date on which the other candidates were appointed.

2.The learned counsel appearing on behalf of the petitioner states that the petitioner was employed on temporary basis in the respondent bank from the year 2000 and served till 2003. The petitioner was employed in the respondent Bank for about four years and the services was continuous with some artificial breaks. The petitioner states that the post in which the petitioner was



engaged is a permanent post and he was allowed to continue on temporary basis with artificial breaks. The petitioner served as a sweeper and attended all other works as directed by the officials of the Bank. In these circumstances, the petitioner claims that his services is to be regularised in the permanent post of sub staff. Further, the petitioner states that he is fully qualified for appointment to the post of "Safai Karmachari-cum-sub staff". This being the factum, the case of the petitioner was not considered despite the fact that he attended the interview on 09.02.2000 at 4.00 p.m., in the respondent Bank. The respondent Bank invited application from the eligible candidates through an advertisement in the newspaper on 02.11.2012. It was published in the daily newspaper Dhina Thanthi, dated 02.11.2012. The writ petitioner also applied and he was directed to attend the interview. Accordingly, he participated in the interview and not selected. Thus, the petitioner is constrained to move the present writ petition.

3.The grievance of the writ petitioner is that he had served in the Bank for the past four years from the year 2000 till 2003. Thus, his case ought to have been considered for grant of permanent absorption in the Bank services.

4.The learned counsel appearing on behalf of the respondents states that the petitioner was engaged as temporary/causal worker. The petitioner was never appointed as permanent employee of the Bank. The petitioner was not appointed by following the recruitment Rules in force. In other words, the initial appointment of the petitioner was not in accordance with the selection procedures and therefore, the writ petitioner cannot claim regularisation or permanent absorption. The writ petitioner was engaged as a casual worker on need basis in between the year 2000-2003. Thus, the writ petitioner cannot claim permanent absorption. When the administrative decision was taken to fill up 46 vacancies, the respondent Bank issued the recruitment Notification and the same was published in Daily Thanthi on 02.11.2012. The relevant guidelines to be applied also were published in the advertisement. In response, the respondents had received 3500 applications and after processing the same, the interview card was sent to all eligible candidates. The process of selection was conducted in accordance with the Rules in force and by conducting the interview on 19.12.2012 to 22.12.2012 and on 11.01.2013. The eligible persons were selected and all those selected candidates were appointed in the Bank service. The reservation policy also was followed by the respondent Bank. The writ petitioner had not been selected by the selection committee. Thus, now the writ petitioner cannot seek a direction for regularisation or permanent absorption based on the length of services rendered as a casual labourer for about 3 ½ years.



5. The learned counsel for the petitioner states that 25% of the vacancies of sub staff are reserved for the employees, who are in service. Therefore, the writ petitioner ought to have been accommodated against the 25% of the vacancy reserved for in service candidates as per the agreement entered into by the Management. However, the point was clarified by the respondents by stating that 25% of the vacancies of sub staff reserved is for the in service candidates, who are all working permanently in the Bank and the quota is not available to the casual labourers/daily rated employees. In this regard, it is stated by the respondent that no quota was allotted for the category of temporary workers like the petitioner in the selection process. As per the circular, only the existing full time "Safai-Kamachari-cum sub-staff" with 5 years of service will be considered for conversion as "Sub-Staff" (after following the due process of conversion) to the extent of 25% of vacancies of sub-staff (as per the relevant guidelines of Government of India). Therefore, it is clear that 25% of the sub-staff have to be filled up by converting the existing "Safai-Kamachari-cum-Sub-Staff. Further, it is stated that in the particular region, there were no full time "Safai-Kamachari-cum Sub-Staff" with 5 years experience is working. When the recruitment was made, the question of filling up of 25% of vacancies by converting the "Safai-Kamachari-cum Sub-Staff" to Sub-Staff (peon) will not arise.

6. This Court is of an opinion that the writ petitioner was serving only as casual labourer from the year 2000 - 2003. Thus, he participated in the selection, which was invited in the year 2012 only by submitting application. From the year 2003 onwards, the petitioner was not in service. The petitioner responded for recruitment notification only in the year 2012 and participated in the process of selection. Since because, the petitioner was not selected, he cannot move the present writ petition and seek direction for permanent absorption only on the ground that he served as a casual labourer from the year 2000-2003. A mere temporary services for about 3 ½ years cannot be a ground for claiming permanent absorption. The respondents had rightly discharged the services of the writ petitioner in the year 2003 and the same was not questioned and thereafter participated in the process of selection in the year 2012. The writ petitioner cannot move the writ petition in view of the fact that he was not selected. After participating in the process of selection, an unselected candidate cannot question the process of selection. This being the legal principles, this Court is of an opinion that no relief can be granted either on the ground that the services are to be permanently absorbed or on the ground that the petitioner was not selected against 25% of the reservation vacancies. The writ petitioner has not established any legal ground. Thus, the

7. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(protocol)

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/True Copy/

Sub Assistant Registrar

AM

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