

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 23.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.33014 of 2007

J.Ravichandran

.. Petitioner

.Vs.

1.The Union of India,
rep.by the Chief Secretary,
Government of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry-605 001.

2.The Local Administration Department,
rep.by the Secretary to
Government (Local Administration),
Government of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry-605 001.

3.The Director of Local Administration,
Directorate of Local Administration,
Rue Suffren, Pudcherry-605 001.

4.Puducherry Municipality,
represented by its Commissioner,
Rue Dumas,Puducherry-605 001.

5.The Chairman,
Puducherry Municipality,
Rue Dumas,Puducherry-605 001.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notification of the fourth respondent in File No.PM/Estt./1-27/A-3/2007-08 dated 10.09.2007 (அறிவிப்பு எண்.பு.ந.நிர்வாகம் 1-27ஆ-3/2007-2008 நாள் 10.09.2007) and quash the same as arbitrary and against law and consequently direct the respondents to regularise the petitioner in the post of Junior Assistant (Registration) French, Puducherry Municipality.

For R1 to R3 : Mr.Stalin Abhimanyu

For R4& 5 : No Appearance

O R D E R

The instant writ petition is filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notification of the fourth respondent in File No.PM/Estt./1-27/A-3/2007-08 dated 10.09.2007 (அறிவிப்பு எண்.பு.ந.நிர்வாகம் 1-27ஆ-3/2007-2008 நாள் 10.09.2007) and consequently direct the respondents to regularise the petitioner in the post of Junior Assistant (Registration) French, Puducherry Municipality.

2.The petitioner was appointed as a Clerk on daily rated basis by an order dated 08.05.1992, by the Pondicherry Municipality. The petitioner was thereafter placed on consolidated pay of Rs.900/- per month with effect from 08.05.1995. Eight candidates were engaged as Clerks on Daily Rated basis at the rate of Rs.43/- per day for a period of six months in the Etat-Civil Section of Pondicherry Municipality with effect from 20.03.1995.

3.The petitioner wrote a letter on 13.02.2003, to absorb him in a regular post since he was kept as a daily rate worked for 11 years. He was directed to produce the original certificates. The petitioner submitted his B.A French Degree Certificate with Lower Typewriting Certificate and relevant certificates.

4.The respondent namely; Local Administration Department, Puducherry issued G.O.Rt.No.94/LAS/2004 dated 05.07.2004, creating 18 posts of Junior Assistant (Registration). Out of these 18 posts, 2 posts were allotted to Puducherry Municipality, the fourth respondent herein. Since these 2 posts were allotted to Puducherry Municipality i.e., the 4th respondent herein, the petitioner made a request to absorb him in the post of Junior Assistant (Registration).

5.A proposal was submitted by the Puducherry Municipality vide letter No.PM-Estt./1-37/A3/2003 dated 02.06.2005, to the Director of Local Administration, Puducherry to accommodate the petitioner in the Post of Junior Assistant (Registration) and the proposal was sent to the Government and the same was returned back. At this point of time, they had already issued notification impugned herein for filling up two posts by direct recruitment. The said notification that has been challenged in the instant writ petition.

6.Heard the learned counsel for the parties.

7.The learned counsel for the petitioner states that he has been appointed as a Clerk in the year 1992 and when the

writ petition was filed in the year 2007, he had already spent 15 years of service. He had the requisite qualification and there were two posts which had been given to the respondent which were vacant. He states that there was no necessity for the respondent to advertise these posts especially when the petitioner is there who has the regular experience and who has also put in the necessary years of service.

8. On the other hand, the learned counsel for the respondents would state that even as per letter dated 10.09.2007 though the notification was advertised by the respondent, due to shortage of funds, the notification was kept in abeyance and also the two posts which remained vacant had not been filled up till today. If any step has been taken by the 4th respondent to fill up the two posts, opportunity will be given to the petitioner. The petitioner has not been able to state as to what right he has got on these two posts. The prayer in the writ petition cannot be granted. However, the respondents are directed to comply with the undertaking given in para 10 of the counter which reads as under:

"10. In the above circumstances, though the Notification was advertised by this respondent, due to shortage of funds, the notification was kept in abeyance and also the two posts which were remained vacant had not been filled up till today. If any step has been taken by the 4th respondent to fill up the 2 positions, opportunity will be given to the petitioner and appropriate action will be taken by this respondent".

With these observations, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

KP

To

1. The Chief Secretary,
Union of India,
Government of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry-605 001.

2. The Secretary to Government (Local Administration),
Local Administration Department,
Government of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry-605 001.

3.The Director of Local Administration,
Directorate of Local Administration,
Rue Suffren, Pudcherry-605 001.

4.The Commissioner,
Puducherry Municipality,
Rue Dumas,Puducherry-605 001.

5.The Chairman,
Puducherry Municipality,
Rue Dumas,Puducherry-605 001.

+1cc to Mr.E.Anbarasan , Advocate SR.No. 81703

+1cc to Mr.R.Parthiban , Advocate SR.No. 81666

+1 cc to Government Pleader Sr.No. 81655

W.P.No.33014 of 2007

A.SK(12/12/2019)



WEB COPY