

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21037 of 2009
and M.P.No.1 of 2009

C.Jayavel

.. Petitioner

-vs-

1.The Secretary to Government,
Personnel and Administrative Reforms
(Per.G) Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The District Collector,
Dharmapuri District.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified mandamus after calling for the concerned records relating to the Na.Ka.No.47706/2003/C1 dated 01.08.2003 and order in Na.Ka.1579/2008 (A4) 28.03.2008 passed by the second respondent and quash the same and consequently direct the second respondent to reinstatement the petitioner with effect from 01.08.2003 with continuing of service and all other consequential monetary and other benefits.

For Petitioner :: Mr.S.Sengodi

For Respondents:: Mr.K.Ravikumar,
Additional Government Pleader

ORDER

The writ petition has been filed challenging the correctness of the impugned order Na.Ka.No.47706/2003/C1 dated 01.08.2003 and Na.Ka.1579/2008 (A4) dated 28.03.2008 passed by the second respondent and seeking a direction to the second respondent to re-instate the petitioner with effect from 01.08.2003 with all other consequential monetary and other benefits.

2.Assailing the impugned order, learned counsel appearing for the petitioner submitted that the petitioner was appointed as Junior Assistant by the Proceedings of the second respondent in Na.Ka.47706/2003/C1 and assigned work in general section of Dharmapuri Collectorate and his employment was based on the sponsorship by the employment exchange. While so, he was removed from service on 01.08.2003 by issuing order of termination by the proceedings of the second respondent in Na.Ka.47706/2003/Ca for want of vacancy. According to the learned counsel appearing for the petitioner, seven other Junior Assistants were also removed from the service on the same day and eight other persons were appointed in the said vacancy by the second respondent as Junior Assistants. In view thereof, the petitioner gave several representations dated 10.11.2003, 08.12.2003, 11.04.2004, 25.04.2005, 21.08.2006 ad 06.11.2006 to the respondents to reinstate him into service. As there was no response, he is before this Court.

3.By way of filing counter affidavit, learned Additional Government Pleader appearing for the respondents would submit that the petitioner, being an Employment exchange candidate, was appointed as Junior Assistant by proceedings No.47706/03/C1 dated 08.07.2003 by exercising power under Rule 11(2) of the Tamil Nadu State and Subordinate Service Rules. According to the said Rule, a person appointed under sub-rule (1) shall not be regarded as a member of the service in which post he is appointed and shall not be entitled by reason only of such appointment to any preferential claim to any other appointment in that or any other service.

4.When the order of appointment itself clearly shows that the petitioner was appointed purely on temporary basis, the order of termination dated 01.08.2003 issued by the second respondent in Na.Ka.47706/2003/Ca cannot be questioned by the petitioner, in the light of Rule 11(2) of the Tamil Nadu State and Subordinate Service Rules. It is pertinent to extract the above rule as under:

'(2)A person appointed under sub-rule (1) shall not be regarded as a member of the service in which the post to which he is appointed is included and shall not be entitled by reason only of such appointment to any preferential claim to any other appointment in that or any other service.'

Therefore, this Court is not inclined to entertain the petition. Accordingly, the writ petition fails and the same is dismissed. Consequently, connected W.M.P. is closed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

vga

To

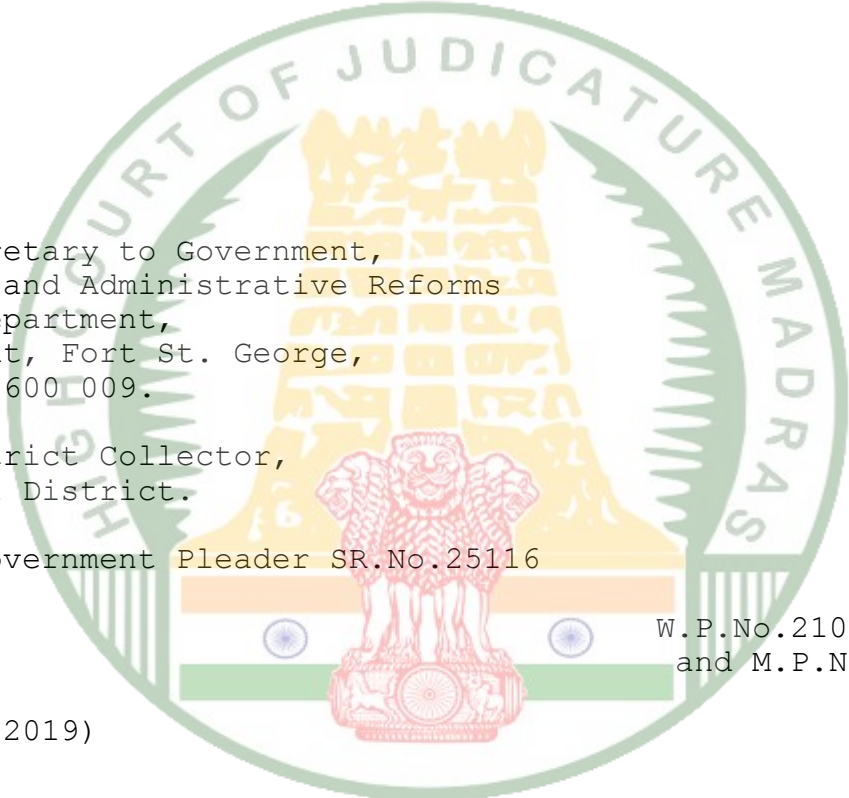
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+1cc to Government Pleader SR.No.25116

MR (CO)
GMY (12/04/2019)

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