

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
Dated: 31.10.2019  
C O R A M  
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.34538 of 2013

S.Chinnasamy

... Petitioner

Vs.

1.The District Collector (P.D.Section)  
Coimbatore District  
Coimbatore.

2.The Assistant Director of Rural Development (Audit)  
Coimbatore District  
Coimbatore.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order bearing Roc.No.4471/2013/K2 dated 27.11.2013 of the first respondent confirming the order bearing Roc.No.184/2013/A1 dated 21.11.2013 of the second respondent and quash the same and further direct the respondents to grant increment and other monetary benefits payable to the post of Junior Assistant which the petitioner had worked between 15.04.1996 and 29.04.2008 with all consequential benefits.

For petitioner : Mr.R.Rajesh

For Respondents : Mr.A.Zakir Husain  
Government Advocate

ORDER

The instant writ petition is filed for a Writ of Certiorarified Mandamus, to call for the records pertaining to the order bearing Roc.No.4471/2013/K2, dated 27.11.2013 of the first respondent confirming the order bearing Roc.No.184/2013/A1, dated 21.11.2013 of the second respondent and to quash the same and further to direct the respondents, to grant increment and other monetary benefits payable to the post of Junior Assistant which the petitioner had worked between 15.04.1996 and 29.04.2008, with all consequential benefits.

2. The petitioner was appointed as Office Assistant in the District Collectoratae, Coimbatore. He was promoted as Record Clerk on 12.01.1984. Thereafter, he was promoted as Junior Assistant on 04.04.1996. The petitioner did not clear the departmental examination, which was necessary to be appointed as Junior Assistant. Therefore, the petitioner was reverted back from the post of Junior Assistant to the post of Record Clerk on 30.04.2008. The petitioner reached the age of superannuation on 31.08.2008. Petitioner states that he had worked as Junior Assistant for a period of 14 years and after 14 years he has not been reverted back to the post of Record Clerk. The petitioner gave a representation to the first respondent herein for grant of increment and other monetary benefits, payable to post of Junior Assistant, for the period between 15.04.1996 and 29.04.2008. Since the representation was not considered. Hence, the petitioner approached this Court by filing W.P.No.22384 of 2013.

3. This Court by an order dated 14.08.2013, directed the respondents therein, to consider the representation of the writ petitioner and pass orders.

4. Vide proceedings in Roc.No.4471/2013/K2, dated 27.11.2013, the District Collector (P.D.Section), Coimbatore District, has rejected the representation of the petitioner. Challenging the same, petitioner has filed the instant writ petition.

5. The first respondent has filed a counter affidavit. In the counter affidavit, first respondent has specifically stated that the petitioner was reverted back from the post of Junior Assistant to the post of Record Clerk in accordance with F.R.26 (a) in ruling (13) for the provision of the Clause (vii). The respondent therefore states that the petitioner was not entitled to be appointed as Junior Assistant and therefore he was reverted.

6. Heard the learned counsel for the parties.

7. Fundamental Rule 26(a) in ruling (13) for the provision of the Clause (vii), reads as under:-

"Government servants in temporary service including of those recruited through Employment Exchange will be eligible to count their temporary service in a post towards increment only if they satisfy all the rules prescribed for holding that post in a regular capacity. In other cases, the temporary

service will count from the date on which they become fully qualified to hold that post.

Provided that Government Servants in temporary service appointed on or after the 11th November, 1982 shall pass the tests and acquire the qualification prescribed for regular Government servants to become eligible for increment. (G.O.No.396, Personnel and Administrative Reforms (Per.J), Department, dated 7-7-1989)"

8. Apart from the invoking mercy and sympathy, the petitioner was not in position to demonstrate as to how he would be entitled to get all the monetary benefits payable to the Junior Assistant, when he was not qualified to be appointed as Junior Assistant. The case of the petitioner that he worked for a period of 14 years as Junior Assistant, does not give a right to be appointed as Junior Assistant. Rule 26 of the Tamil Nadu Government Fundamental Rules, does not confer any right to be appointed in the absence of requisite qualification.

9. The order reverting the petitioner cannot be found fault with and is in accordance with rule.

10. In view of the above, writ petition is dismissed. No Costs.

Sd/-  
Asst.Registrar (CS I )  
/true copy/

Sub Asst. Registrar

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To

1.The District Collector (P.D.Section)  
Coimbatore District  
Coimbatore.

2.The Assistant Director of Rural Development (Audit)  
Coimbatore District  
Coimbatore.

+1 cc to the Government Pleader sr90741

W.P.No.34538 of 2013

aa11/12/2019



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