

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.P.Nos.1483 and 543 of 2018

Rohit Rasikchandra Pathak .. Petitioner in both
the Writ Petitions
Vs.

The Registrar General,
High Court,
Madras-600 104. ... Respondent in
W.P.No.1483 of 2018

1. The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home (Court V) Department,
Fort St.George, Chennai-600 009.
2. The Registrar General,
High Court, Madras-600 104. ... Respondents in
W.P.No.543 of 2018

Writ Petition No.1483 of 2018 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the proceedings in OM Roc.No.72942/Estt-I, dated 28.02.2017 on the file of the respondent and quash the same.

Writ Petition No.543 of 2018 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records and quash the Letter No.30290/Cts.V/2017-4, dated 18.09.2017 on the file of the first respondent.

For petitioner : Mr.V.Bhiman in both the Writ Petitions
For respondents : Mr.V.Vijay Shankar for respondent in
W.P.No.1483 of 2018 and for second
respondent in W.P.No.543 of 2018

Mr.S.N.Parthasarathy, Govt. Advocate
for first respondent in W.P.No.543 of 2018

COMMON ORDER

(The Common Order of the Court was made by R.Subbiah, J)

Writ Petition No.1483 of 2018 is filed by the petitioner praying for issuance of a Writ of Certiorari to call for the proceedings in OM Roc.No.72942/Estt-I, dated 28.02.2017 on the file of the respondent and quash the same.

2. The very same petitioner has also filed Writ Petition No.543 of 2018 praying for issuance of a Writ of Certiorari to call for the records and quash the Letter No.30290/Cts.V/2017-4, dated 18.09.2017 on the file of the first respondent.

3. It is the case of the petitioner that the respondent-Registrar General of this Court, by letter in R.O.C.No.97/98 Cont.Estt.I, dated 18.11.1998, called for applications for the post of Interpreter (Gujarathi) by direct recruitment. Subsequently, a Notification was issued and through an Official Memorandum, dated 25.02.1999, appointment order was issued to the petitioner appointing him temporarily as Interpreter (Gujarathi). The following are the conditions of his appointment:

"He should qualify in the following prescribed Departmental Special Tests for the said post within the period of Probation (2 years):

(1) Translation Test in Gujarathi Paper I & II

(ii) Translation Test in any one of the following languages:

Telugu or Urdu or Tamil (Paper-I & II)

(iii) Civil and Criminal Judicial Tests for members of the Judicial Department Parts I, II and III.

(iv) Accounts Test for Subordinate Officers - Part I"

4. The petitioner joined the service in the respondent-Office of the Registrar General of this Court on 03.03.1999. He

could not qualify in the Departmental Tests within the period stipulated and hence, at his request, the time for qualifying in the Departmental Tests was periodically extended and ultimately, by proceedings of the respondent-Registrar General in R.O.C.No.6020-A/2000-Estt.I, dated 22.11.2005, he was declared to have fully qualified to hold the post of Interpreter (Gujarathi) and his services were regularised with effect from 26.05.2005 and his probation was declared one year thereafter, i.e. one year from the date of qualifying the last Department Test. He was granted his first increment only after one year from the date of his qualifying in the last Departmental Test. Hence, he gave a representation to the respondent-Registrar General on 06.10.2016 to grant increments from the date of his initial appointment, as was done in the case of one J.L.Dolia, seeking to regularise the petitioner's services with effect from the date of his initial appointment, namely on 03.03.1999. The services of the said predecessor of the petitioner, i.e. J.L.Dolia, who was also appointed as Interpreter (Gujarathi) was regularised and his probation was also declared and increment was also sanctioned. The respondent-Registrar General, by R.O.C.No.72942/2016 Estt.I, dated 28.02.2017, issued Official Memorandum, rejecting the plea of the petitioner seeking regularisation of his services from the date of his initial appointment. Hence, challenging the said Official Memorandum, dated 28.02.2017, W.P.No.1483 of 2018 is filed by the same petitioner for the relief stated supra.

5. The first respondent-Additional Chief Secretary to Government, by Letter in No.30290/Cts.V/2017-4, dated 18.09.2017, rejected the said representation, dated 06.10.2016, which was communicated to the petitioner by the second respondent-Registrar General in R.O.C.No.74540/2016/Estt.IV, dated 15.11.2017, and challenging the said letter dated 18.09.2017, the petitioner preferred W.P.No.543 of 2018, for the relief stated supra.

6. The respondents have filed counter affidavits opposing the prayer sought for by the petitioner in both the Writ Petitions, to which the petitioner has also filed reply affidavit.

7. When the Writ Petitions are taken up for consideration, the learned counsel for the respondent-Registrar General of this Court submitted that in view of the Government's Letter in No.57006/Cts.V/2018-7, dated 19.07.2019, the petitioner's services were regularised from 03.03.1999 being the date of his initial appointment and that now the petitioner had been promoted as Sub-Assistant Registrar (Writs), and these facts are evident from the Official Memorandum in R.O.C.No.72942/2016-Estt.I, dated 03.10.2019 issued by the respondent-Registrar

General of this Court. By the said proceedings dated 03.10.2019, he is entitled to draw increments from the day following the last day of the Test, with monetary benefit and notionally on the normal due date of increment i.e. 01.01.2000, in the post of Interpreter (Gujarathi).

8. In view of the above said letter of the Government, dated 19.07.2019 and the said proceedings of the respondent-Registrar General, dated 03.10.2019, no further adjudication is required in these Writ Petitions on the merits of the matter. The respondents are directed to implement the above said proceedings, dated 19.07.2019 and 03.10.2019 within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above observation and direction, both the Writ Petitions are disposed of. No costs.

Sd/-
Asst.Registrar (IX)

/true copy/

Sub Asst. Registrar

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To

1. The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home (Court V) Department,
Fort St.George,
Chennai-600 009.
2. The Registrar General,
High Court,
Madras-600 104.

+1 cc to M/s.V.Bhiman Advocate sr85853
+1 cc to M/s.V.Vijay Shankar Advocate sr86256

W.P.Nos.1483 and 543 of 2018

br(co)
aa22/10/2019