

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.A.No.1975 of 2019

P.Venkatachalam ...Appellant/Petitioner

Vs

1.The State of Tamil Nadu,
rep. By its Principal Secretary to Government,
Department of School Education,
Secretariat, Chennai 9

2.The Director,
Directorate of Public Libraries,
737/1, Anna Salai,
Chennai 600 002

...Respondents/Respondents

Appeal filed against the order passed by this Court dated 22.03.2019 in WP No.8242 of 2019.

W.P.8242/2019:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to appoint the petitioner as in -charge to the post of District Library officer instead of accommodating the Librarians who are in Lower Grade to the Post of Superintendent till the anomaly is rectified by considering petitioners representations dated 20/04/2018 and 05/03/2019.

For appellant : Mr.N.Manokaran

For Respondents : Mr.C.Munusamy, Spl.G.P.

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The writ petition filed by the appellant to restrain the respondents from giving charge to the officers to exercise the function of the District Library Officer, was dismissed by the learned Single Judge. Feeling aggrieved, the appellant has come up with this appeal.

2. The appellant is presently working as Superintendent with effect from 26 July 2006. He is a selection Grade Superintendent in the office of the District Library, Karur, which is notified as Local Library Authority at Karur. According to the appellant, he is fully qualified for appointment to the post of District Library Officer.

3. The Government of Tamil Nadu issued an order in G.O.Ms.104 School Education Department 23 May 2018, making amendments to the ad hoc rules for the post of District Library Officer. The amended rule provides that appointment to the post of District Librarian shall be by way of direct recruitment through Tamil Nadu Public Service Commission from open market. It is seen that 50% of the substantive vacancies in the permanent cadre is reserved for direct recruitment. The remaining 50% would be filled up by recruitment by transfer from the post of Librarian Grade I or Inspector of Libraries in the Public Works Department. There is no other mode to fill up the 50% post by way of recruitment by transfer from any other service.

4. The appellant has made a claim that he is eligible for appointment to the post of District Library Officer in case the mode indicated in the amended rules by transfer from the post of Librarian Grade I or Inspector of Libraries is resorted to. The appellant has got a grievance that even though there are employees like him eligible for appointment to the post of District Library Officer, the Department has been giving charge to the librarians to function temporarily as District Library Officer (in-charge). It was the contention of the appellant before the writ court that respondents were in the habit of relaxing the rules for accommodating the librarians for the post of District Library Officer or permitting them to act continuously as District Library Officer, in-charge, by overlooking the superintendents, who are eligible for appointment as District Library Officer. Since the claim of the employees like the appellant were not considered and the in-charge administration continued indefinitely, the appellant filed the writ petition.

5. The learned Single Judge dismissed the writ petition on the ground that there is no right to claim appointment as District Library Officer in charge. The learned Single Judge opined that it is open to the appellant to agitate the issue whenever regular process is resorted to for promotion.

6. We have heard the learned counsel for the appellant. We have also heard the learned Special Government Pleader on behalf of the respondents.

7. The Government issued an Order in G.O.Ms.104, School Education Department, dated 23 May 2018 making amendment to the ad hoc rules for appointment to the post of District Library Officer. The ad hoc rules provide that 50% of the total vacancies would be filled up by direct recruitment. The remaining 50% would be recruited by transfer from the post of Librarian Grade I / Inspector of Libraries in the Public Works Department. There is no other category eligible for such appointment. The said provision makes the employees of any other service eligible for appointment by transfer. The appellant is right in his contention that the Government has been giving charge to the librarians without making substantive appointment to the post of District Library Officer.

8. The Government Order in G.O.Ms.104 dated 23 May 2018 was issued as an interim measure authorizing the Government to make incharge appointment for a temporary period. However, the said Government Order has been taken as an authority given to the Government to give charge to the librarians so as to enable them to work as District Library Officer.

9. The Tamil Nadu Public Service Commission appears to have issued a notification dated 21 November 2017 for appointment to the post of District Library Officer. The Government have already appointed 13 District Library Officer on permanent basis. There are 19 vacancies as on today. In charge librarians are now occupying the post of District Library Officer. Their continuation would be only up to the completion of the selection process for the remaining 19 posts.

10. The learned special Government Pleader on instruction from the respondents submitted that the Government would complete the process of appointment of 19 District Library Officers and would dispense with the services of officers presently officiating in the post of District Library Officer.

11. The learned counsel for the appellant fairly submitted that the appellant filed a Writ Petition challenging the notification dated 21 November 2017 solely on the ground that process was taken only to fill up the post earmarked for direct recruitment. According to the learned counsel, in case

simultaneous process is undertaken for filling up the remaining posts in accordance with the ad hoc rules, the employees like the appellant would also be benefitted.

12. We permit the respondents and the Tamil Nadu Public Service Commission to proceed with the process for filling up the post of District Library Officer by direct recruitment and by way of promotion. The first respondent must ensure that 10 posts earmarked for recruitment by transfer must be filled up through the process indicated in the table appended to the ad hoc rules, viz., by (i) direct recruitment; (ii) by recruitment by transfer from the post of Librarian Grade I/ Inspector of Libraries in the Public Libraries Department; and (iii) by recruitment by transfer from any other service. Eligibility of the employees like the appellant should also be considered for appointment by way of recruitment by transfer. Since in-charge administration has been continuing at least from 2001, we direct the first respondent to ensure that the entire 19 posts are filled up as expeditiously as possible and in any case on or before 31 December 2019.

13. The intra court appeal is disposed of with the above direction. No costs. Consequently, C.M.P.No.13367 of 2019 is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

tar

To

1.The Principal Secretary to Government,
Department of School Education,
Secretariat, Chennai 9

2.The Director,
Directorate of Public Libraries,
737/1, Anna Salai, Chennai 600 002

+1 CC to Mr.N.Manokaran, Advocate sr 74256.

+1 CC to The Govt. Pleader sr 74653.

W.A.No.1975 of 2019

NMI (CO)
SP(06/11/2019)