



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.34967 of 2019
and W.M.P No.35755 of 2019

P.Palani

Petitioner

vs.

1. The State of Tamil Nadu
rep. by its Principal Secretary,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai - 600 009.

2. The Director,
Town Panchayat,
Directorate of Town Panchayat,
MRC Nagar, Chennai - 600 028.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd respondent to absorb the petitioner to the post of Junior Assistant/Bill Collector as per G.O.Ms.No.76 dated 31.05.2019 with effect from 28.11.2019 without reference to the Charge Memo dated 27.09.2019 with all monetary and service benefits.

For Petitioner : M/s.Dakshyani Reddy

For Respondents: Mrs.K.Bhuvaneswari
Additional Government Pleader

O R D E R

This writ petition has been filed for issuance of writ of mandamus directing the 2nd respondent to absorb the petitioner to the post of Junior Assistant/Bill Collector as per G.O.Ms.No.76, dated 31.05.2019.

2.The case of the petitioner is that he joined as Junior Assistant/Bill Collector on daily wage basis in the year 1986. The Government took a policy decision and passed G.O.Ms.No.125, dated 27.05.1991 and decided to absorb the persons placed similar to the petitioner as a Junior Assistant/Bill Collector depending upon their educational qualifications. After the issuance of Government Order, various persons were absorbed as Junior Assistants/Bill Collectors in various Municipalities and Corporations.



3.The petitioner along with similarly placed persons made representation to the Government to absorb them to the post of Junior Assistants/Bill Collectors in accordance with the G.O.Ms.No.125, dated 27.05.1991. The Government issued G.O.Ms.No.76, dated 31.05.2019, after getting concurrence of TNPSC, directing persons like the petitioner to be absorbed into the post of Junior Assistants/Bill Collectors w.e.f. 02.06.2001. It is the specific case of the petitioner that his name finds place in the above said Government order at Serial No.45. A report was also given by the Executive Officer of the Town Panchayat to the effect that there are no disciplinary proceedings pending against the petitioner and the petitioner was expecting his absorption order in accordance with G.O.Ms.No.76, dated 31.05.2019. It is the further case of the petitioner that various persons were absorbed pursuant to the Government order. As a subsequent event, a charge memo came to be issued against the petitioner on 27.09.2019 and the petitioner has also given his explanation to the charge memo.

4.The grievance of the petitioner is that this charge memo is now put against the petitioner and he is not absorbed into the post of Junior Assistant/Bill Collector therefore, the petitioner has made a representation to the respondents on 29.11.2019 and since the same has not been considered, the present writ petition has been filed before this Court.

5.Heard Ms.Dakshayani Reddy, learned counsel appearing on behalf of the petitioner and Mrs.K.Bhuvaneshwari, learned Additional Government Pleader appearing on behalf of the respondents.

6.Taking into consideration the facts and circumstances of the case and also the limited relief sought for, this Court deems it fit to dispose of this writ petition by giving directions to the 2nd respondent. The petitioner is not seeking for promotion but only for absorption into service by virtue of G.O.Ms.No.76, dated 31.05.2019. This Government order has come into effect and the name of the petitioner also finds place in the list of persons who were considered for absorption. A subsequent charge memo that has been issued against the petitioner is now put against the petitioner for not being absorbed into the said post.

7.The learned counsel for the petitioner submitted that the petitioner will cooperate for the earlier disposal of the earlier disciplinary proceeding and that the petitioner has already given explanation for the charge memo on 18.10.2019. The learned counsel submitted that even a time frame can be fixed for the completion of the disciplinary proceeding and this should not come in the way of the respondent considering the petitioner for absorption to the post of Junior Assistant/Bill Collector.



7. In view of the above, there shall be a direction to the 2nd respondent to consider the representation made by the petitioner on 29.11.2019 and pass appropriate orders in line with G.O.Ms.No.76, dated 31.05.2019. If on the crucial date, there are no departmental proceedings pending against the petitioner, this Court does not find any hick ups for the 2nd respondent to consider the name of the petitioner for absorption. What the petitioner is seeking is only absorption and not promotion. Therefore, by absorbing the petitioner in accordance with G.O.Ms.No.76, dated 31.05.2019, the same will not have any impact on the disciplinary proceeding that have been initiated subsequently by issuing the charge memo on 27.09.2009. The 2nd respondent is directed to pass appropriate orders within a period of four weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the 2nd respondent along with a copy of this order.

8. This writ petition is disposed of with the above direction. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

ssr

To

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai - 600 009.
2. The Director,
Town Panchayat,
Directorate of Town Panchayat,
MRC Nagar, Chennai - 600 028.

+1cc to M/s.Dakshyani Reddy, Advocate SR.No.104752

+1cc to Government Pleader SR.No.105337

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and W.M.P No.35755 of 2019

MG (CO)
GMY (13/01/2020)