



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD) No.23254 of 2015

A.Vaikkalsamy

... Petitioner

vs.

1.The Assistant General Manager (HR)
State Bank of India
HR Department, Local Head Office
'Circle Top House'
Post Box No.737, 16 College Lane
Chennai-600 006

2.The Branch Manager
State Bank of India
Palani Branch, Palani
Dindigul District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records of the impugned proceedings passed by the 1st respondent herein on 15.06.2015 and quash the same and consequently direct the 1st respondent herein to absorb the writ petitioner in any permanent vacancy within a time stipulated by this Court.

For Petitioner : No appearance

For Respondents : No appearance for R1

Mr.S.Sethuraman for R2

ORDER

The very same writ petitioner Mr.A.Vaikkalsamy earlier filed W.P.(MD) No.13942 of 2011 with a prayer to quash the order of rejection dated 20.09.2011 passed by the first respondent and to direct the respondents to give permanent employment to him in the post of Messenger in the second respondent / Bank.

2. The said writ petition filed by the writ petitioner was dismissed by this Court on 31.01.2018 and the relevant portion of the said order is extracted hereunder:

"3. The learned counsel appearing on behalf of the respondent Bank informed the Court that the list was prepared, on 01.03.1997 itself and the writ petitioner absorbed on permanent basis. Now the post sought to be filled up is only by following the recruitment rules of the Bank. This apart, the writ



petitioner was appointed only as daily wages employee and he was serving for about one year. Therefore, permanent absorption cannot be granted now by the nationalized Bank, contrary to the recruitment rules in force. Benefit of permanent absorption can be granted only if the initial appointment was made in accordance with the recruitment rules in force. The Constitution Bench of the Hon'ble Supreme Court of India, in the case of Secretary, State of Karnataka and others Vs. Umadevi and others reported in (2006) 4 Supreme Court Cases 1, categorically ruled the legal principles in this regard. Accordingly, all appointments are to be made by following the rules in force, equal opportunity for public employment is a constitutional mandate and therefore, permanent absorption cannot be granted in respect of the appointment made initially in contravention with the rules. This being the principles to be followed, now the list prepared initially, was also lapsed on 31.03.1997. The Hon'ble Supreme Court has settled the legal principles in the year 2006 itself and this Court is not inclined to consider the case of the writ petitioner and it is for the petitioner to participate in the open competitive process.

4. Accordingly, the writ petition stands dismissed. However, there is no order as to costs."

3. The present writ petition is filed challenging the proceedings of the first respondent, dated 15.06.2015, in respect of the very same claim of the writ petitioner to grant confirmation of his appointment in the post of Messenger. The order impugned in the present writ petition also arose on account of the further representation of the writ petitioner with reference to the same issue and the impugned order itself states that the earlier writ petition filed by the writ petitioner in W.P.(MD) No.13942 of 2011 was pending before this Court. In spite of that the writ petitioner has chosen to file the present writ petition.

4. Such a conduct of the writ petitioner is to be deprecated. When the writ petitioner earlier filed W.P.(MD) No.13942 of 2011 to quash the order of rejection and to direct the respondents to provide permanent employment in the post of Messenger, he ought not to have filed another writ petition i.e., the present writ petition challenging the another order of rejection, wherein the pendency of the earlier writ petition was also cited. Filing writ petition after writ petition in respect of the very same issue is impermissible. Such a conduct can never be appreciated, but to be condemned. Once a writ petition is filed in respect of the issues raised, the same is to be adjudicated completely and filing of another writ petition on the very same issue is not maintainable. However, taking note of the fact that the writ petitioner is employed as a Casual Messenger, this Court is not inclined to impose any cost. However, the writ



petitioner is warned that he should not indulge in any such activities of filing writ petition after writ petition for the same cause of action.

5. With these observations, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

/ True Copy /

Sub Assistant Registrar (CS-)

Krk

To

1.The Assistant General Manager (HR)
State Bank of India
HR Department, Local Head Office
'Circle Top House'
Post Box No.737, 16 College Lane
Chennai-600 006

2.The Branch Manager
State Bank of India
Palani Branch, Palani
Dindigul District

+1 CC to Mr.S.SETHURAMAN, Advocate (SR-69304[F] dated 18/06/2019)

+1CC to Mr.A.D.GANESHA MOORTHY, Advocate (SR-69703[F] dated 19/06/2019)

W.P. (MD) No.23254 of 2015
17.06.2019

ES/26.06.2019/3P/5C