



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.2728 of 2014
and
M.P.(MD)No.1 of 2015

P.Kaleeswaran

... Petitioner

-Vs-

1.The Principal Secretary,
Rural Development and Panchayat Raj Department,
Government of Tamil Nadu,
Secretariat, Chennai-9.

2.The Secretary,
Public and Administrative Reforms Department,
Secretariat, Chennai-9.

3.The Commissioner,
Rural Development and Panchayat Raj,
Chennai-15.

4.The District Collector,
Sivagangai District, Sivagangai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of 1st respondent in ref letter No.112/Pa.A 7(1) 2011-10 dated 24.1.2013 and quash the same and further direct the respondents to issue suitable order for appointing the petitioner as Junior Assistant in the Department of Rural development & Panchayat Raj.

For Petitioner : Mr.K.K.Senthilvelan

For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

The order dated 24.01.2013, rejecting the claim of the writ petitioner to appoint him in the post of Junior Assistant, is under challenge in the present writ petition.



2.The learned counsel appearing on behalf of the writ petitioner states that the petitioner is now working as Bill Collector in Kalaiyarkoil Panchayat, Sivagangai District. He was appointed in the post of Bill Collector on 09.10.1991 by the Commissioner, Kalaiyarkoil Panchayat. The petitioner himself admitted the fact that he was appointed in the scale of pay equivalent to that of the post of Junior Assistant. The appointment was made pursuant to the promotion granted by the District Collector, Sivagangai District. However, the learned counsel for the writ petitioner states that the petitioner submitted an application to appoint him as Junior Assistant and the said request was not considered by the authorities competent.

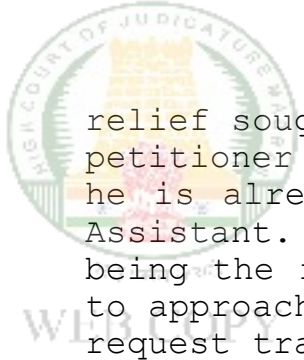
3.It is contended that the authorities recommended the case of the writ petitioner to appoint him as Junior Assistant. The said recommendations were not considered by the competent authorities. Thus, the writ petitioner is constrained to move the present writ petition.

4.The learned Additional Government Pleader appearing on behalf of the respondents relying on the counter affidavit contended as under:-

"..8..(g) Besides direct recruitment as provided in rule 2, appointment to the categories of Junior Assistant, Junior Assistant-cum-Typist and Typist shall be made by recruitment by transfer from other services, subject to the following conditions, namely:-

(I) Persons in services, other than the Tamil Nadu Ministerial Service, who are in categories having no promotional opportunities or even after more than one promotion in the respective service would still be in a category carrying scale of pay lower than that of Junior Assistant or Junior Assistant-cum-Typist or Typist alone shall be considered for appointment by recruitment by transfer as Junior Assistant or Junior Assistant-cum-Typist or Typist in the Tamil Nadu Ministerial Service, subject to the possession of the prescribed qualification for direct recruitment..."

5.This Court is of the considered opinion that both the posts of Bill Collector as well as the Junior Assistant carry equivalent scale of pay. Both the posts are inter-changeable. Therefore, the question of granting promotion from the post of Bill Collector to the post of Junior Assistant does not arise at all. Both the posts are considered for promotion to the post of Assistant. This being the factum, posting of a person either in the post of Bill Collector or in the post of Junior Assistant is the administrative prerogative of the competent authorities and the High Court cannot issue any direction to accommodate an employee either in the post of Junior Assistant or in the post of Bill Collector. The administrative decision is to be taken for the purpose of running the public administration efficiently. Under these circumstances, the very



relief sought for to appoint the writ petitioner or promote the writ petitioner to the post of Junior Assistant does not arise at all as he is already drawing the salary applicable to the post of Junior Assistant. Both posts are inter-changeable and similar cadre. This being the factual situation, it is left open to the writ petitioner to approach the competent authorities, if at all, he wants to give a request transfer and it is for the authorities concerned to consider the said request and this Court cannot issue any direction in this regard.

6. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AD-I)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Principal Secretary,
Rural Development and Panchayat Raj Department,
Government of Tamil Nadu,
Secretariat, Chennai-9.

2. The Secretary,
Public and Administrative Reforms Department,
Secretariat, Chennai-9.

3. The Commissioner,
Rural Development and Panchayat Raj,
Chennai-15.

4. The District Collector,
Sivagangai District, Sivagangai.

+1 CC to M/s.K.K.SENTHIL VELAN, Advocate (SR-76148[F] dated 18/07/2019)

W.P. (MD) .No.2728 of 2014
18.07.2019

SJI/AM
JM/31.07.2019/3P-6C