

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No.10061 of 2020

R.Ramamurthy

.. Petitioner

-Vs-

1. Union of India
Rep. by the Director General
Department of Posts New Delhi
2. The Post Master General
Central Region, Tiruchirapalli Head Office,
Trichy-620 001
3. The Senior Superintendent of
Post Office, Tiruchirappalli Head Office
Trichy-620 001
4. The Assistant Superintendent
of Post Office
Trichy West Sub Division
Office of Teppakulam P.O.
Trichy-620 002

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents 1 to 3 to implement the order dated 17.04.2017 made in W.P.No.38110 of 2016 for the petitioner's absorption in the permanent vacancies available in the above place on regular monthly salary regularize his service and pay the arrears of salary for the period worked from 2017 till his absorption and regularization.

For Petitioner

.. Mr.K.V.Ananthakrishnan

For Respondents

.. Mr.K.Venkatasamy Babu

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner, who is working as a casual/temporary employee and who suffered an order from the Division Bench, has come forward to file the present writ petition, seeking implementation of the same by way of absorption.

2. We do not wish to go into the facts of the case except by placing on record the order passed by the Division Bench in W.P.No.38110 of 2016 dated 13.12.2017 by incorporating paragraphs 11 and 12, which read as under:

11. Applying the principles enunciated in the above judgments of the Hon'ble Supreme Court to the case on hand, it is clear that the petitioner herein cannot claim as a right to be absorbed in service, since he had not been selected in terms of the relevant recruitment rules. Thus, the prayer sought for by the petitioner cannot be granted.

12. However, this Court is of the considered opinion that the petitioner could be given some weightage when he applies for any regular posts if any, that may arise in future, in the respondent Department. Till such time, the Department shall continue to employ the petitioner, as is existing as on date, in accordance with law.

3. From the above, it is seen that the request of the petitioner for absorption was already rejected as his entry was through back doors. Thus, the prayer as sought for by the petitioner cannot be granted. Though we are in agreement with the learned counsel for the petitioner that the writ petition is maintainable by rejecting the submission of the learned counsel for the respondents, the relief granted by the Division Bench is not in favour of the petitioner except to the extent of permitting him to continue till a decision is made to fill up the regular posts. That is the reason why the petitioner is allowed to continue as of now. Thus, the question of absorption was not raised as it was already declined by the Division Bench, having attained finality between the petitioner and the respondents. If the petitioner who is working on temporary basis as of now wants to raise the issue with respect to the payment being on par with another employee who has been appointed on a regular basis to the same post, he can work out the remedy in the manner known to law.

4.With the above observation, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Director General
Department of Posts New Delhi
2. The Post Master General
Central Region,
Tiruchirapalli Head Office,
Trichy-620 001
3. The Senior Superintendent of
Post Office, Tiruchirappalli Head Office
Trichy-620 001
4. The Assistant Superintendent of Post Office,
Trichy West Sub Division
Office of Teppakulam P.O,
Trichy-620 002.

+1cc to Mr.K.V.Ananthakrushnan, Advocate, Sr.No.28358

W.P.No.10061 of 2020

rsv (co)
rr ii (15/09/2020)

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