

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3852 of 2021
(Heard through VC)

A.Yakop

.. Petitioner

-vs-

1.The Superintending Engineer,
Electricity Department,
Puducherry.

2.The Secretary to Government,
(Welfare)-cum-State Commissioner,
Directorate of Social Welfare,
Government of Puducherry,
Puducherry.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the first respondent to consider the representation dated 13.01.2020 and place the petitioner in the Bill Collector post and grant seniority from the date of promotion 01.08.2014 as Bill Collector.

For Petitioner : Mr.K.V.Anthakrushnan

For Respondents : Mr.Stalin Abhimanyu

O R D E R

The petitioner has come forward with this writ petition seeking a direction to the first respondent to consider his representation dated 13.01.2020 and place the petitioner in the Bill Collector post and grant seniority from the date of promotion, i.e. 01.08.2014 as Bill Collector.

2. Mr.Stalin Abhimanyu, learned counsel takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, he was appointed as Construction Helper in the first respondent-board under

'Physically handicapped quota' and continue to work in the same post till 31.07.2014. After completion of three years of service, he was placed in the post of Bill Collector without any written communication. Though the petitioner has discharged the duty of Bill Collector, he availed only the salary of Construction Helper. Therefore, he sent a representation dated 04.03.2016 to the first respondent requesting to designate him as Bill Collector. The first respondent has rejected his request on the ground that though he has more experience since 01.08.2014, he has completed only 8 months service in the post of Helper on ad-hoc basis and hence he is not entitled for promotion. Thereafter, he made a representation dated 08.08.2016 to the Minister Social Welfare, Puducherry. As there was no response from the Puducherry Government, the petitioner has sent another representation dated 13.01.2020 to the respondents. After receipt of the same, the first respondent has informed that the promotion will be given with immediate effect but without retrospective effect. Since the arrears of salary for the post of Bill Collector is pending from 2014, the petitioner is constrained to file this writ petition.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondents, more particularly, the first respondent herein to consider the representation submitted by the petitioner dated 13.01.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the first respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 13.01.2020 and this order, to the first respondent forthwith;

v) The first respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

rsi

To

- 1.The Superintending Engineer,
Electricity Department,
Puducherry.
- 2.The Secretary to Government,
(Welfare)-cum-State Commissioner,
Directorate of Social Welfare,
Government of Puducherry,
Puducherry.

+1 Cc to Mr.K.V.Anthakrushnan, Advocate sr 10909.

+1 CC to The Government Pleader(Pondy) sr 11466.

WEB COPY

W.P.No.3852 of 2021

KV(CO)
SP(01/04/2021)