

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.04.2021

CORAM :
THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY
W.P.No.3204 of 2021

M.Raja

... Petitioner

Vs

1 The Registrar General
High Court Chennai-600104

2 The Principal Judge
City Civil Court Chennai-104

3 The Chief Metropolitan Magistrate
Egmore Chennai-08

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the Respondents to promote the petitioner to the post of Record Clerk by way of transfer of service on par with his juniors taking into account his seniority in the post of office Assistant and grant him all consequential benefits.

For Petitioner : Mr.P.Rajendran

For Respondents: Mr.M.Santhanaraman

ORDER

(made by SENTHILKUMAR RAMAMOORTHY, J.)

The petitioner seeks promotion to the post of Record Clerk by way of transfer of service on a par with his juniors, by taking into consideration his seniority in the post of office assistant.

2. The petitioner works as an office assistant at the XVIII Metropolitan Magistrate Court, Saidapet. It is stated that he was recruited through the employment exchange by proceedings of the Chief Metropolitan Magistrate, Chennai, dated 5 March 2014.

3. In the year 2017, the third respondent conducted a test for selection to the post of record clerk by way of transfer of service. According to the petitioner, the post of Office

Assistant is a post in the Tamil Nadu Basic Service, whereas the post of Record Clerk is a post in the Tamil Nadu General Subordinate Service. As per applicable rules, it is contended by learned counsel for the writ petitioner that the post is not a selection post and therefore, is required to be filled up by preparing a panel on the basis of seniority. However, the rules were not adhered to when the post was filled up in the year 2017 by conducting a test for such purpose. Consequently, five persons who are junior to the petitioner were appointed as record clerks.

4. In the above circumstances, the writ petitioner submitted representations to the respondents 1 and 2 on 31.12.2019 and 14.09.2019 respectively and on account of such representations not eliciting an appropriate response, the present writ petition is filed.

5. Learned Standing counsel for the respondents Mr.M.Santhanaraman admits that the recruitment by transfer of service to the post of record clerk would be governed by the Tamil Nadu General Subordinate Service Rules. He also concedes that such rules do not envisage selection to the post of record clerk. While a test was administered in connection with recruitment to this post in the year 2017, he states that no test has been conducted thereafter and that future selections would be made in accordance with the applicable rules.

6. The representations submitted by the petitioner are admittedly pending consideration before the authorities concerned and have not been disposed of till date. Therefore, keeping in mind the submissions on behalf of the respondents, the respondents should consider the representation of the petitioner in accordance with the applicable rules and dispose of the same by a reasoned order.

7. Accordingly, without examining the merits of the matter, the second respondent herein is directed to consider the representation dated 14.09.2020 of the petitioner and dispose of the same by a reasoned order in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

8. W.P.No.3204 of 2021 is disposed of without any order as to costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To:

1 The Registrar General
High Court
Chennai-600104

2 The Principal Judge
City Civil Court
Chennai-104

3 The Chief Metropolitan Magistrate
Egmore
Chennai-08

+1 cc to Mr.P.Rajendran, Advocate Sr No.23201

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GPL(CO)
RG.23.04.2021(3p/5c)



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