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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.17597 of 2013

K.Mahendran

...Petitioner

-Vs-

1. Government of Tamilnadu,
Personal Administrative Reforms Dept.,
Rep. by its Secretary,
Fort St. George, Secretariat,
Chennai - 600 009.

2. Chief Engineer,
Office of Chief Engineer,
Highways Department,
Construction and Maintenance
Accounts Section,
Chennai - 600 108.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the order passed in K.No.Account 1/ME/08/2013 dated 03.01.2013, thereby set aside the order passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to repay the sum of Rs.67,807/- to the petitioner.

For Petitioner : Mr.V.Manisekaran

For R1 : Mr.P.Ganesan,
Government Advocate

For R2 : No Appearance

ORDER

Heard Mr.V.Manisekaran, learned counsel for the petitioner and Mr.P.Ganesan, learned Government Advocate appearing for the first respondent. There is no appearance on behalf of the second respondent.



2. The petitioner was originally selected as an Audit Assistant in the Tamil Nadu Highways Department on 25.01.2010, after completion of the six months training period. At the time of selection, he had executed a bond to work for a minimum of 3 years as Audit Assistant, failing which, the petitioner would be bound to indemnify a sum of Rs.70,000/- towards training expenses.

3. In this background, the petitioner was subsequently selected for the post of an Assistant in the Registration Department, through Tamil Nadu Public Service Commission on 26.12.2012, which is within the 3 year bond period. Through the impugned order dated 03.01.2013, the petitioner's request for relieving him from the post of Audit Assistant in the Highways Department was permitted, by invoking the bond and claiming a sum of Rs.67,807/-. Aggrieved against this action, the present writ petition has been filed.

4. The learned counsel for the petitioner placed reliance on G.O.Ms.No.25, Personnel and Administrative Reforms Department, dated 09.01.1987, which specifies that when a Government employee leaves the services of the State Government within the bond period, but secures another employment under the Central Government or any other State Government or public enterprise, after obtaining prior permission and he completes the bond period in the subsequent employment, the original bond executed by him will not be enforced against the employee.

5. On the contrary, the learned Government Advocate appearing for the first respondent placed reliance on the same Government Order and stated that this condition in G.O.Ms.No.25 would be applicable only to employees who undergo scientific and technical training and since G.O.Ms.No.777, Public Works Department, dated 24.03.1964, states that the post of Audit Clerk is a non-technical post, the benefit of G.O.Ms.No.25 is not applicable to the petitioner.

6. I am not in agreement with the objections raised by the respondents herein. In the counter affidavit filed by the respondents, it is stated that on the petitioner's appointment as an Audit Assistant in the Highways Department, he was subjected to a training, so as to enable him to become conversant with the several processes of audit to enable him to do practical work like posting of schedule of works expenditure, checking of the previous payments, checking of suspense schedules, trace payments in the contractor's ledger accounts, check rates in vouchers with those provided for in the agreements.

7. What G.O.Ms.No.777, dated 24.03.1964 stipulates is that the post of an Audit Clerk will be classified as non-technical,



for the purpose of direct recruitment alone. However, the Government Order does not speak about the nature of training extended to an Audit Assistant in the Tamil Nadu Highways Department.

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8. While going by the averments made in the counter affidavit, the very nature of the training extended to the petitioner is purely technical in nature, so as to enable him to undertake the several processes of audit. The designation of the post of an Audit Clerk as non-technical has no relevance to the training adduced by the respondents and merely because the post is classified as non-technical, the training will not automatically become non-technical in nature.

9. The object of the Government having passed G.O.Ms.No.25, is to enable a Government employee to migrate from one Government post to another for better benefits and in case such a Government employee completes 3 year period in both the original place of employment, as well as the subsequent place of employment, the benefit of non-enforcement of the bond should be extended to them. Such a Government Order is a beneficial order and merely going by technicalities for the purpose of invoking the bond amount, may not be proper.

10. It is now brought to the notice of this Court that on 03.01.2013, the petitioner herein had paid the entire sum of Rs.67,807/- claimed in the impugned order. It is also stated that the petitioner has thereafter completed 3 years of continuous service in the Registration Department.

11. In the light of the above observations, the impugned order dated 03.01.2013 is quashed. Consequently, there shall be a direction to the second respondent to forthwith refund the sum of Rs.67,807/- to the petitioner, within a period of 8 weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed accordingly. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

hvk



To

1. The Secretary to Government,
Personal Administrative Reforms Dept.,
Fort St. George, Secretariat,
Chennai - 600 009.

2. The Chief Engineer,
Office of Chief Engineer,
Highways Department,
Construction and Maintenance
Accounts Section,
Chennai - 600 108.

+1cc to Mr.V.Manisekaran, Advocate SR. No. 22540
+1cc to Government Pleader SR. No. 23677

W.P.No.17597 of 2013

VBM (CO)
PR (19/04/2022)