



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.3149 of 2022

and

W.M.P.Nos.3307 & 3309 of 2022

P.Parthiban

... Petitioner

vs.

1. The Transport Commissioner
Chepauk, Chennai-600 005.

2. The Regional Transport Officer
Tindivanam.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order of the first respondent herein passed in his Proc.R.No.11235/RA1/2021 (E.O.No.53/2022) dated 31.01.2022 insofar as including the petitioner's name in the panel at Sl.No.10 is concerned and quash the same and consequently direct the first respondent herein to delete the petitioner's name in the panel of fully qualified Motor Vehicle Inspectors (Non Technical) fit for promotion to the post of Personal Assistants drawn for the year 2021-2022 and direct the first respondent herein to accept the petitioner's request for temporary relinquishment of promotion as Personal Assistant for a period of 3 years by considering the representation dated 17.12.2021.

For Petitioner : Mr.Ravi Shanmugam

For Respondents : Mr.V.Jeevagiridharan
Additional Government Pleader

O R D E R

This writ petition has been filed seeking to quash the order passed by the first respondent in his Proc.R.No.11235/RA1/2021 (E.O.No.53/2022) dated 31.01.2022 insofar as including the petitioner's name in the panel at



Sl.No.10 is concerned and quash the same and consequently direct the first respondent herein to delete the petitioner's name in the panel of fully qualified Motor Vehicle Inspectors (Non Technical) fit for promotion to the post of Personal Assistants drawn for the year 2021-2022 and direct the first respondent herein to accept the petitioner's request for temporary relinquishment of promotion as Personal Assistant for a period of 3 years by considering the representation dated 17.12.2021.

2. According to the writ petitioner, presently he is working as Motor Vehicle Inspector (Non Technical). The first respondent has published a panel of Motor Vehicle Inspectors (NT) fit for promotion to the post of Personal Assistant to Regional Transport Officer for the panel year 2021-2022 and his name was included in the aforesaid list for finalising the promotion panel for the year 2021-2022. After having knowledge about the panel, the petitioner has submitted a representation on 17.12.2021, through proper channel by relinquishing his right to be promoted as Personal Assistant to Regional Transport Officer for a temporary period of 3 years from 20.12.2021 to 31.12.2024, in the light of Rule 57 (2) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016. According to the petitioner, the petitioner's name has been included in the serial No.10 for promotion to the post of Personal Assistant by proceedings dated 31.01.2022. Hence, the petitioner has filed the instant writ petition before this Court.

3. The learned counsel for the petitioner would submit that the issues involved in the instant writ petition has been discussed in detail in the case of V.Loganathan v. The Principal Secretary, Home Department, St.George Fort, Chennai-600 009 and 2 others reported in 2017 SCC OnLine Mad 23138 and also relied upon the decision of this Court in W.P No.18910 of 2014 dated 17.07.2018. In the light of the aforesaid decisions, the petitioner is having the right to make such request for relinquishment as per the rules and hence, in view of the above, the petitioner is entitled for the present relief.

4. The learned Additional Government Pleader appearing for the respondents submitted that the petitioner has made a representation to the first respondent. According to the respondents, by relying upon Section 57(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the petitioner cannot have the right to seek for the relinquishment for promotion to the post of Personal Assistant. However, in the light of the decision of this Court and also considering the provisions of Section 57(1) & 2 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the first respondent will pass appropriate orders on the representation



made by the petitioner.

5. In view of the aforesaid submissions of the parties, the first respondent is directed to consider the representation of the petitioner dated 17.12.2021 and take appropriate decision in accordance with law, in the light of the decision of this Court cited supra, as expeditiously as possible, more preferably, within a period of four weeks from the date of receipt of a copy of this order. If any promotion panel is prepared, the same shall be kept in abeyance, till such decision is taken by the first respondent.

6. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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1. The Transport Commissioner
Chepauk, Chennai-600 005.
2. The Regional Transport Officer
Tindivanam.

+lcc to the Government Pleader, S.R.No.13763

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BR(CO)
SU(17/03/2022)