



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.03.2022
CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5032 of 2022

A.Ramesh

... Petitioner

-vs-

- 1.The Chief Secretary to the Government
of Tamil Nadu, Secretariat,
Fort St. George, Chennai-600009.
- 2.The Principal Secretary to the Government /
Commissioner of Revenue Administration,
Revenue and Disaster Management Department,
Secretariat, Fort St. George, Chennai-600009.
- 3.The Principal Secretary to the Government,
Human Resource Management Department,
Secretariat, Fort St. George, Chennai-600009.
- 4.The Principal Secretary to the Government,
Law Department, Secretariat,
Fort St. George, Chennai-600009.
- 5.The Chairman,
The Tamilnadu Public Service Commission,
Chennai-600002.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the Respondents 1 to 5 to identify the vacancies in the post of Personal Assistant to District Collector (Legal matters) in the cadre of Deputy Collector and to fill up the same by Law Degree Graduates through direct recruitment in view of the G.O.(MS) No.82 Revenue (Ser.1) Department dated 09.03.2012, within a time stipulated by this Court on the basis of the petitioners representation dated 16.12.2021.

For Petitioner : Mr.R.Shankar Ganesh

For RR1 to 4 : Mr.D.Nedunchezian,
Government Advocate

For R5 : Mr.J.Anand Kumar



O R D E R

The relief sought for in the present writ petition is to direct respondents 1 to 5 to identify the vacancies in the post of Personal Assistant to District Collector (Legal matters) in the cadre of Deputy Collector and to fill up the same by Law Degree Graduates through direct recruitment.

2.The learned counsel for the petitioner relying on the order passed by the Government in G.O.Ms.No.82, Revenue (Ser.1) Department, dated 09.03.2012 states that one post of Personal Assistant to District Collector (Legal matters) was created by the Government and the procedures for direct recruitment were also contemplated. However, the respondents are not recruiting candidates directly for the said post of P.A. to District Collector (Legal matters). Thus, the petitioner is constrained to move the present writ petition.

3.The petitioner is a practising Lawyer at Pudukkottai. A Lawyer is standing in a better pedestal in the society and his conduct must be always good in all circumstances. Before filing a writ petition, the petitioner, being a Lawyer, must establish his right at the first instance. Therefore, the petitioner must exercise restraint in filing such kind of writ petitions on certain flimsy grounds. A Lawyer, being a responsible person in the society and enjoying a special status in the society, is expected to maintain good conduct at all circumstances both inside the Court premises and outside the Court premises.

4.This Court is of the considered opinion that appointment can never be claimed as a matter of right. Even a selection would not confer any right. Once a recruitment notification is issued by the competent authorities, after taking an administrative decision to fill up the posts, then the eligible candidates may submit an application to participate in the process of selection, but not otherwise. When there is no right established, no writ is entertainable. It is a precondition that the person approaching the High Court should establish right and in the absence of any such right, the Court would not be in a position to entertain the writ petition.

5.In the present case, no doubt the post of Personal Assistant to District Collector (Legal matters) was created. Filling up of the post is the administrative prerogative and the policy decision of the Government. Therefore, the petitioner cannot seek any such relief to issue direction to fill up a particular post or otherwise. Only if a notification is issued and if the petitioner is eligible as per the notification, then alone he will be in a position to participate in the process of selection.



6. With the above observations, this Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (As)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

To

1. The Chief Secretary to the Government
of Tamil Nadu, Secretariat,
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2. The Principal Secretary to the Government /
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Revenue and Disaster Management Department,
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3. The Principal Secretary to the Government,
Human Resource Management Department,
Secretariat, Fort St. George, Chennai-600009.
4. The Principal Secretary to the Government,
Law Department, Secretariat,
Fort St. George, Chennai-600009.
5. The Chairman,
The Tamilnadu Public Service Commission,
Chennai-600002.

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-13624[F] dated 22/03/2022)

+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-13985[F] dated 23/03/2022)

+1 CC to M/s.SPL GP (SR-13901[F] dated 23/03/2022)

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MGJ(04.04.2022) 3P 9C