



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2022

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.26981 of 2019

and

W.M.P (MD) Nos.23341 & 23342 of 2019

E.Murugesan

... Petitioner

-vs-

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation Ltd.,
No.12, Thambusamy Road,
Kilpauk, Chennai-10.

2.The Regional manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Madurai Region, Kuruvikaran Road,
Madurai.

3.K.Suriya
4.M.Rangeela
5.R.Suganya
6.A.Yathesh
7.K.Krishnakumar
8.P.Naveenkumar
9.A.Aswinbabu

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders passed by the first respondent vide Proc.No.AE9/11795/2019, dated 18.11.2019 and consequential order passed by the second respondent in Na.Ka.No.E1/023595/19, dated 25.11.2019 and quash the same and consequently direct the first and second respondents to appoint the petitioner as Bill Clerk in pursuance of the Regional wise Seniority list dated 09.02.2015.

For Petitioner	: Mr.D.Shanmugaraja Sethupathi, Advocate
For R1 & R2	: Mr.G.Mohan Kumar, Advocate
For R3 to R9	: No appearance



O R D E R

The order passed by the first respondent, dated 18.11.2019 and the consequential order passed by the second respondent, dated 25.11.2019 are under challenge in the present writ petition.

2.The writ petitioner was appointed as Seasonal Helper by the second respondent in proceedings, dated 01.02.2012 on temporary basis. The petitioner continuous as a Seasonal employee. The learned counsel appearing for the petitioner mainly contended that the right of the Seasonal employees under the settlement entered into between the Management and the Trade Union under the Industrial Disputes Act is to be protected. As per the settlement, whenever vacancy arises, the petitioner has to be accommodated in Madurai Region and instead of accommodate the petitioner, the respondents have appointed the new persons on compassionate ground from other region and such appointments affected the rights of the Seasonal Employees based on the settlement.

3.Settlement on one hand. Compassionate appointment on other hand. The compassionate appointments are granted to mitigate the circumstances arising on account of sudden demise of the employees. No doubt, it is restricted with reference to the norms fixed. Equally, the rights of the Seasonal Employees are also conferred by way of settlement. When such mitigating factors are prevailing for the authorities to deal with, then they have consider the appointments on compassionate ground and accommodate them in Madurai region and the grievance of the petitioner has not been redressed.

4.In this regard, this Court is of the considered opinion that certain administrative exigencies are to be resolved by the competent authority and not by the Courts. The Courts cannot interfere in respect of certain administrative appointments made on compassionate ground and to posts the seasonal employees in a particular region based on the settlement. No doubt, the authorities competent are bound to take balancing approach in such circumstances.

5.The learned counsel for the petitioner made a submission that the compassionate appointees are to be transferred to some other place. However, the Court cannot issue such direction to the administration as the transfer of an employee or otherwise is an administrative prerogative of the authorities concerned and the employees cannot claim a place or post as a matter of choice or as a matter right. However, it is to be considered that the petitioner right is made based on the settlement and the said right is also to be considered by the competent authority.

6.Under these circumstances, the case of the petitioner is to be considered whenever the vacancy arises and based on his eligibility and by following the other procedures as contemplated in the settlement. There is no impediment or otherwise.



7. With these observations, the writ petition stands disposed of. No order as to costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Deputy Registrar (A/CS)

/ /2022
Sub Assistant Registrar(CS)

TO

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-4687[F] dated 08/02/2022)

+7 CC to M/s.S.GOKULRAJ, Advocate (SR-4682[F] dated 08/02/2022)

+1 CC to M/s.G.MOHAN KUMAR, Advocate (SR-4595[F] dated 07/02/2022)

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RS (17.02.2022) 3P-10C