



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.10325 of 2023

M.B.Ayyapparajan

... Petitioner

Vs.

The Tamil Nadu Civil Supplies Corporation,
Rep. by its Managing Director,
Thambuswamy Road,
Chennai – 600 010.

... Respondent

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings No.SA.MU.Aa.AE7/8425/2022 dated 17.03.2023 of the respondent, quash the same and consequently direct the respondent to continue the petitioner in service including declaration of probation.

For Petitioner

: Mr.Venkataraman

For Respondent

: Mr.C.Selvaraj
Standing Counsel



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ORDER

The petitioner herein was appointed as an Assistant Manager in the respondent Corporation on 04.02.2011. As per the Employees Service Regulations, 1989 governing the respondent Corporation, the petitioner is required to pass the departmental tests namely District Office Manual (DOM) Test and Commercial Book Keeping (CBK) Test within a period of five years, for the purpose of declaration of probation. The petitioner had completed his DOM Test on December, 2011. However, he had passed the Commercial Book Keeping Test only in the month of December, 2017. Since the requirement is to pass these tests on or before five years i.e., 05.02.2016 was violated, a show cause notice was issued to the petitioner on 27.05.2022 as to why action should not be initiated against him for not passing the tests within five years. Not being satisfied with the petitioner's reply dated 13.06.2022, the impugned order dated 17.03.2023 was passed.

2. As per the Service Regulations of the respondent / Corporation, five years period is granted to an employee to pass the Test from the date of the their appointment. Regulation 18 provides that every directly recruited candidates shall be placed probation for a period of two years initially.



Regulation 19 enables the appointing authority to extend the period of probation for three years thereafter.

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3. On the whole, an employee is required to pass these tests within five years. Regulation 20 provides that in case an employee, does not pass the required test within probation period or within the extended period of probation, the authority shall terminate his probation and discharge him from service based on the assessment of the knowledge acquired by the probationer and prescribed test he/she has passed. However, Regulation 21 provides that if no such order of terminating the probation and discharging the employee under Regulation 20 is passed within six months from the expiry of the extended period of probation, it shall be deemed that the probationer has satisfactorily completed his/her probation, provided he/she has passed all the prescribed probation tests within the period of probation or extended period of probation.

4. In the instance case, though the petitioner had not completed one of the two tests on or before 05.02.2016, the respondents had permitted him to continue his service till 17.02.2023, when the present order of termination



was passed.

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5. This Court is of the view that the conduct of the respondents in having permitted the petitioner to continue his service in violation of the Regulation 20, they have extended the period of probation till the order of termination came to be passed. If such an interpretation is given to the case of the petitioner herein, he is deemed to have been completed his probation period in view of Regulation 21 and by taking into account that the petitioner has passed CBT in the month of December 2017.

6. Thus, in view of the above discussion, the impugned passed by the respondent in proceedings No.SA.MU.Aa.AE7/8425/2022 dated 17.03.2023 is quashed and consequently, there shall be a direction to the respondent herein forthwith to reinstate the petitioner back into service together with continuity of service and all service benefits. However, the petitioner is not entitled for the monetary benefits for the period of his non-employment. Such orders shall be passed within a period of four (4) weeks from the date of receipt of copy of this order.



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costs.

7. With the above directions, this Writ Petition stands allowed. No

21.12.2023

Jeni
Index : Yes
Neutral Citation : Yes
Speaking order

To

The Managing Director,
The Tamil Nadu Civil Supplies Corporation,
Thambuswamy Road,
Chennai – 600 010.



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M.S.RAMESH, J.

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