



W.P.(MD)No.2827 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.2827 of 2023
and
W.M.P.(MD)No.2656 of 2023**

R.Diwakar

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai - 600 009.

2. The Commissioner,
Tiruchirappalli Municipal Corporation,
Tiruchirappalli.

3. The Director of Municipal Administration,
Chepauk,
Chennai - 600 005.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to consider and dispose of the representation dated 12.01.2023 of the petitioner within a time frame and reserve one post of Assistant Commissioner (Accounts) of the 40 vacant posts notified vide Roc.No. 6353/2022/MCA1, dated 03.01.2023, since it is likely to be filled up before 30.01.2023.

For Petitioner : Mr.Ashwin Bala Someshwerar

For Respondents : Mrs.K.Christy Theboral
Additional Government Pleader

ORDER

This Writ Petition has been filed for a direction to the respondents to consider and dispose of the representation of the petitioner, dated 23.01.2023 within a time frame and reserve one post of Assistant Commissioner (Accounts) of the 40 vacant posts notified vide Roc.No. 6353/2022/MCA1, dated 03.01.2023, since it is likely to be filled up before 30.01.2023.



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2. The case of the petitioner is that the petitioner has been recruited as NMR Technical Assistant on 18.05.1994 for the Municipal Urban Development Scheme through District Employment Exchange. However, till 2001, the services of the petitioner were not regularised. Hence, the petitioner along with others filed Writ Petitions before the Principal Seat of this Court in W.P.Nos.4662 of 2001 and 2866 of 2009 to regularise their services in the category of Technical Assistants. This Court, by order, dated 04.07.2014, directed the respondents to regularise their services, as against which, the Commissioner of Trichurappalli, preferred Writ Appeals before the Hon'ble Division Bench of the Principal Seat of this Court in W.A.Nos.1763 to 1766 of 2014 and the same were dismissed on 06.04.2015. Thereafter, the first respondent has taken effective steps to fill up the promotional post without considering the petitioner's services, and hence, the petitioner has filed the present Writ Petition before this Court to reserve one post of Assistant Commissioner (Accounts) of the 40 vacant posts notified vide order, dated 03.01.2023. Hence, the petitioner has made a representation, dated 23.01.2023. But, till date, the same has not been



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considered. Therefore, the petitioner has filed the present Writ Petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that it would suffice, if the concerned respondent is directed to consider the representation of the petitioner, dated 23.01.2023, on merits and in accordance with law, within a specified period.

4. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

5. The facts in the present case are not in dispute. Admittedly, on earlier occasion, the petitioner has filed the Writ Petition for regularisation of his services and subsequently, his services were regularised. It appears that the respondents have taken steps to fill up the Assistant Commissioner (Accounts) post and accordingly, they notified vide order, dated 03.01.2023. However, the petitioner claims that he is entitled to be considered as Assistant Commissioner (Accounts) and no details have been produced



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before this Court. If at all, the petitioner claims promotion, he has to work out the remedy before the appropriate forum, instead making representation to respondents, is not sustainable one. Hence, the prayer sought for in the Writ Petition cannot be granted.

6. Accordingly, this Writ Petition is dismissed with liberty to work out his remedy in the manner known to law. No costs. Consequently, connected Miscellaneous Petition is closed.

13.02.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji



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M.DHANDAPANI,J.

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