



W.P(MD)No.13710 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13710 of 2020

and

W.M.P.(MD)Nos.11387 & 11388 of 2020

and

W.M.P.(MD)No.1195 of 2021

K.Sankar Ganesh

... Petitioner

Vs.

1.The Chief Educational Officer,
Thoothukudi.

2.The District Educational Officer,
Thoothukudi Educational District,
Thoothukudi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.3302/A1/2020, dated 02.09.2020 passed by the second respondent and quash the same and consequently, direct the respondents to post/appoint the petitioner to the post of Junior Assistant by transfer within a time stipulated by this Court.



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For Petitioner : Mr.R.V.Rajkumar

For Respondents : Mr.N.Satheeskumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner joined the education department as Sweeper in the year 23.11.2012. The case of the petitioner is that he should be appointed as Junior Assistant by way of recruitment by transfer. Since his request was rejected by the impugned order, the petitioner has moved this Court for relief.

4. The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents and pressed for dismissal of the writ petition.

5. The post of Junior Assistant is mentioned in Category-14 in Tamil Nadu Ministerial Service Rules. Rule 2 provides for direct recruitment. Rule 3 sets out method of recruitment-special. Rule 3 (g) states that besides direct recruitment, appointment to the said post shall be made by recruitment by transfer from other services. The said Rule 3(g) is subject to few conditions.



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There are two provisos. The petitioner belongs to Tamil Nadu Basic Service.

He is possessing the requisite educational qualification.

6. I fully endorse the stand of the petitioner's counsel that the petitioner is entitled to be appointed as Junior Assistant by transfer. However, the second proviso to the aforesaid Rule 3(g) reads that from 1995 onwards, the posts shall be filled up only after giving training to the persons in the lower category. Rule 3(g)(v) is as follows:-

3.Method of Recruitment Special:-

g(v): Those who are in possession of the required educational qualification and belong to the Tamil Nadu Basic Service shall be given training in clerical work for a period of six months out of which for the first three months the training shall be with the Record Clerk and on its completion, the second three months shall be with the Junior Assistant. The above training shall be for two hours a day without detriment to their normal work.

7. Therefore, the only inference is that the persons occupying the basic services will have to be given training in the post of Record Clerk after which they would be considered for being appointed as Junior Assistant by way of transfer. The petitioner was actually given one such offer in the year 2020. For certain reasons, the petitioner herein declined the said offer. Instead, he was



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insisting that he should be promoted as Lab Assistant. If the petitioner had accepted the offer in the year 2020, by now, he would have been in the post of Record Clerk and probably would have been appointed as Junior Assistant by way of transfer. The petitioner has to blame himself for the present condition. Of-course, the proceedings issued on 15.07.2021 by the District Educational Officer, Thoothukudi employs expression 'promotion'.

8. Even while sustaining the impugned order and declining to direct the authorities to now appoint the petitioner as Junior Assistant by way of transfer, I direct the respondents to give option to the petitioner to undergo training in the post of Record Clerk. Such proceedings will be issued as expeditiously as possible.

9. The Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

09.03.2023

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Chief Educational Officer,
Thoothukudi.
- 2.The District Educational Officer,
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G.R.SWAMINATHAN, J.

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