



WEB COPY



WA No.1949 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.1949 of 2023
and
CMP.Nos.16652, 16654 & 26730 of 2023

R. Kumar
Appellant

..

Versus

1. The Commissioner
Government Data Centre
Guindy, Chennai - 600 025
2. The Administrative Officer
Government Data Centre
Guindy, Chennai - 600 025
3. The Secretary to Government
Finance (C.A) Department
Secretariat, Chennai - 600 009.
4. The Secretary to Government
Personnel and Administrative Reforms Department
Secretariat, Chennai - 600 009
5. The Director of Employment and Training
Santhome High Road
Chennai - 600 004.

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside
the order dated 14.07.2023 passed by the learned Judge in W.P. No.26519 of

<https://www.mhc.tn.gov.in/judis>



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2014.

For Appellant

: Mrs. Kavitha Nithyanandan

For Respondents

: Mr. R. Neelagandan,
Additional Advocate General
assisted by M/s. M. Keerthika,
Government Advocate

JUDGMENT

(Judgment of the Court was made by R. MAHADEVAN, J.)

The appellant / writ petitioner has preferred this intra-court appeal, as against the order dated 14.07.2023 passed by the learned Judge in dismissing the writ petition in W.P. No. 26519 of 2014 filed by him.

2. In the affidavit filed in support of the writ petition, it was stated by the appellant that he was appointed as Punch Operator on 07.05.2007 on contract basis, after conducting an interview and he was posted in the Government Data Centre, Guindy, Chennai - 600 025. Subsequently, the appellant joined duty on 22.05.2007 and discharged his duties satisfactorily. However, on 26.12.2007, he was ousted from service for want of vacancy. Challenging the order dated 26.12.2007, the appellant filed WP No. 13787 of 2009 praying to issue a Writ of Certiorarified Mandamus to quash the order dated 26.12.2007 and consequently direct the respondents to reappoint or re-employ him as Punch Operator in Government Data Centre on regular basis in compliance with G.O.Ms.No.122, Finance (C.A) Department dated



10.04.2007. By order dated 29.09.2009, the learned Judge disposed of the writ petition with a direction to the respondents to consider the case of the appellant and to reappoint him on temporary basis till the vacancies are filled on a regular basis. Pursuant to such order, the appellant was re-engaged and he continued in service. Thereafter, on 22.01.2014, he submitted a representation to the respondents to appoint him in the regular post. The said representation dated 22.01.2014 was rejected by the first respondent by his proceedings dated 05.03.2014. Challenging the order dated 05.03.2014, the present writ petition was filed by the appellant.

3. The learned Judge, after hearing the counsel for both sides, dismissed the writ petition filed by the appellant on 14.07.2023. The relevant portion of the order dated 14.07.2023 reads as follows:-

"4. On perusal of counter filed by the respondent, revealed that the petitioner was appointed on temporary basis, that too for a period of five months or it may be continued till the examination work is completed, whichever is earlier. He was appointed under the consolidated wage of Rs.4,000/- per month as Punch Operator on 22.05.2007. Thereafter, the service was extended for two months as per GO.Rt.No.1146 Finance(CA) Department dated 19.10.2007. Thereafter the period of contract was over and his service had to be terminated after lapse of extended period of two months since he was appointed on temporary basis under adhoc appointment. In fact, he was recruited on temporary basis subject to the condition that his service will be terminated as and when post of Punch Operator is filled up with regular employees or candidates selected through Public Service Commission. Therefore, his service was not required to the Government Data Centre. He was appointed under Rule 10(a)(i) of Tamilnadu State and Subordinate Service Rules.

5. Thereafter, the petitioner approached this Court in WP.No.13787 of 2009 and this Court though rejected the claim of the petitioner, on regular basis before filling up vacancies in the post of Punch



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Operators through Public Service Commission in the event of any need for temporary appointment, the respondents were directed to consider the case of the petitioner to reappoint him on temporary basis till the vacancies are filled on the regular basis. Therefore, again the petitioner was considered for appointment under Rule 10 (a) (i) of Tamilnadu State and Subordinate Service Rules on the basis of the need of the Government Data Centre. Further, the qualifications prescribed for the post of Punch Operators as amended in GO.Ms.No.294 Finance (CA) Department dated 01.08.2012 are as follows:

(i) Must have passed +2 (Plus two) Higher Secondary Grade examination conducted by the Government of Tamilnadu, or an equivalent Examination

(ii) Must have passed the Government Technical Examination Typewriting in English and in Tamil by Senior Grade conducted by the Department of Technical Education, Government of Tamilnadu and

(iii) Must have passed "Certificate Course in Computer Office Automation" conducted by the Department of Technical Education, Government of Tamilnadu.

6. Accordingly, the petitioner is not even possessing the prescribed qualification in order to appoint him in the permanent vacancy. Therefore, the petitioner has no enforceable legitimate or lawful right to seek appointment to the post of Punch Operator even temporarily. Hence, the first respondent had rightly rejected the request made by the petitioner dated 05.03.2014 to appoint him in the permanent vacancy. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent.

7. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs."

Aggrieved by the aforesaid order of the learned Judge, the appellant is before this court with the present appeal.

4. Today, when the appeal was taken up for consideration, the learned Additional Advocate General appearing for the respondents produced a copy of the communication in Letter No.29055/A/2014 dated 28.02.2024 of



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"Initially, a total Number of 73 posts of Punch Operators were sanctioned to Government Data Centre out of which 33 have been converted by the Government as 15 post each for Typists and Junior Assistants and 3 posts of Supervisors to Government Data Centre and for the remaining 40 posts of punch operators, necessary proposal has been sent to the Government to surrender 39 posts excluding the one post held by R. Kumar i.e., the writ petitioner the last recruitment for the above post was done in the year 2014 by TNPSC as no further requisition for recruitment for that post has been sent by Government Data Centre to TNPSC.

The service particulars of Thiru R.Kumar is furnished as follows:-

Name	Thiru R.Kumar
Designation	Punch Operator 10 (A) (i)
Date of Birth	02-Jun-1967
Age as on 29.02.2024	56 years 8 months 27 days
Date of retirement	30-Jun-2027
Remaining Service	3 years 4 months and 2 days

Stating so, the learned Additional Advocate General appearing for the respondents submitted that the appellant would be permitted to continue in service till his superannuation.

5. In view of the subsequent development as stated above, this court is of the opinion that no further orders need be passed in this writ appeal, except recording the communication and the submissions so made on the side of the respondent authorities. Accordingly, the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

J.]

[R.M.D., J.]

[M.S.Q.,

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Index : Yes / No

Internet : Yes / No

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and
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