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W.P.No.20654 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20.04.2026

Pronounced on : 28.04.2026

CORAM

THE HONOURABLE MR.JUSTICE T. VINOD KUMAR

W.P.No.20654 of 2019
and
WMP.No.10127 of 2022

A.Anand

... Petitioner

Vs.

The Principal Secretary/ Member Secretary
Chennai Metropolitan Development Authority
Egmore, Chennai 600 008.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to quash the order dated 03.06.2019 issued by the respondent bearing Memo No.E3/3987/2019 directing the respondent herein to consider the promotion of the petitioner to the post of Assistant directly from the post of Typist having served a period of 8 years.

For Petitioner : Ms.C.Madhuri
for R.Udhaykumar
For Respondent : Mr.S.Ishaa
for M/s.P.Veena Suresh



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ORDER

Heard, Ms.C.Madhuri, learned counsel for Mr.R.Udhayakumar, the counsel for the petitioner and Ms.S.Isha, learned counsel for Ms.P.Veena Suresh, learned Standing Counsel for the respondent and perused the materials on record.

2. The case of the petitioner in brief is that he was temporarily appointed as Typist in the office of Chennai Metropolitan Development Authority vide appointment order dated 19.05.2010; that he was placed on probation for a period of two years in a continuous period of three years; that his probation was declared and his services were regularized from the date of joining of his service i.e., on 24.05.2010 vide proceedings dated 29.05.2012 and that while working as Typist in Chennai Metropolitan Development Authority, he was deputed to work in the Secretariat.

3. It is the further case of the petitioner that as per the Madras Metropolitan Development Authority Service Regulations 1980, the petitioner's service are covered by the Madras Metropolitan Development Authority Non-Technical Subordinate Service Regulations 1980, forming



part of the main Regulations; that as per the Regulations, on completion of 5 years of service in the post of Typist, he is eligible to be promoted to the post of Junior Assistant, that the respondent had failed to grant promotion to the petitioner on completion of 5 years service as Typist and granted promotion as Junior Assistant only on 19.07.2018 thereby depriving the petitioner of the promotion on completion of 5 years service as Typist.

4. It is further case of the petitioner that while working as Typist, he had obtained Diploma in Electrical Engineering (DEE) and on completing the said course, he had approached the respondent and submitted a representation for being appointed to the post of Junior Engineer (Electrical) vide representations dated 13.10.2015 and 16.03.2016; and that the respondent rejected the aforesaid request of the petitioner vide proceeding dated 09.08.2016.

5. The petitioner also contends that while he was required to be elevated to the post of Junior Assistant in the year 2015, the respondent, while seeking to fill up the post of Junior Assistant from the feeder category of Typist, Steno-Typist, have included Record Keeper and Fieldsman as eligible to the promotion post of Junior Assistant contrary to Regulations 1980; that in order to grant promotion to the post of Junior Assistant on the



basis of seniority, the respondent claimed that the concerned Employee need to submit willingness, which is not prescribed in the Regulations; that the petitioner being deputed to work at Secretariat is not even made aware of any declaration being called for by the respondent for granting promotion to the post of Junior Assistant; and thus, the entire action of the respondent in granting promotion to the post of Junior Assistant is only on the basis of declaration of willingness is contrary to the Regulations.

6. It is also the further case of the petitioner that as per the Regulations, the post of Junior Assistant is required to be filled up by way of Direct Recruitment and promotion in the ratio of 5:1; that the respondent during the year 2014-2015 have filled up all the vacancies numbering 45 only by way of Direct Recruitment, thereby depriving the opportunity for promotion to the petitioner.

7. The petitioner contends that as per the Regulations while the petitioner was eligible for being promoted to the post of Junior Assistant on completion of 5 years, as the respondent did not grant the promotion, he had submitted representations dated 20.03.2019 and 03.06.2019 seeking for being promoted to the post of Assistant directly from Typist since, the



Regulations permit for such appointment; and that the respondent without considering the said representation had issued the impugned proceedings claiming that his request for promotion to the post of Assistant directly from Typist cannot be complied as per the Approved Service Regulations, which action of the respondent, is contended to be illegal, arbitrary and contrary to the Regulations.

8. Contending as above, the petitioner seeks for setting aside the impugned order with a consequential direction to the respondent.

9. Pending the consideration of the Writ Petition, the petitioner has also filed a Miscellaneous Petition seeking amendment of the prayer in the Writ Petition to quash the impugned proceedings and directing the respondent to fix the seniority retrospectively from 2015.

10. Counter affidavit on behalf of the respondent is filed.

11. The respondent has filed a counter affidavit mainly contending that the petitioner had completed 5 years of service on 23.05.2015, and thus became eligible for transfer of service to the post of Junior Assistant on 31.03.2016 (crucial date for preparing of panel for the year 2016-2017).



12. The respondent by the counter affidavit also contended that as per Approved Service Regulations and also the Draft Service Regulations, various categories of the employees became eligible for promotion/transfer of service to the post of Junior Assistant which inter alia included Typist/Steno Typist with 5 years service experience, Record Clerk as per the Draft Service Regulations with 7 years service experience and Fieldsman /Messenger after completion of a Degree from a recognized University.

13. By the counter affidavit, it is contended by the respondent that all the posts under the ministerial categories are covered for promotion/transfer of service to the post of Junior Assistant; that based on the estimated vacancies, panel will be prepared for the year, in the ratio 1:2 for single vacancy and 2 qualified candidates will be considered; that the crucial date in 31st March of panel year for being included in the list for promotion; that it is not practically possible to include all the feeder categories employees irrespective of the individuals giving willingness to opt for the post of Junior Assistant; that the vacancies were filled up based on the seniority.



14. The respondent also contended that the petitioner had submitted two representations for the post of Junior Engineer (Electrical) during the year 2016-2017, as he has completed Diploma in Electrical Engineering (DEE), wherein he had mentioned about the Transfer of Service for all the posts including the Junior Assistant; that as there is no provision available in the Approved Service Regulation for Transfer of Service to the post of Junior Engineer (Electrical), his request was denied and reply given to the petitioner on 20.11.2015 and 09.08.2016 wherein it had been clearly indicated that there is a provision in the Approved Service Regulations to move to the post of Junior Assistant on Transfer of Service from the post of Typist and can secure subsequent promotion such as Assistant, Superintendent, Personal Manager and Administrative Officer; that the petitioner did not furnish any willingness /representation for Transfer of Service to the post of Junior Assistant within the prescribed time frame; and that the petitioner submitted his willingness only on 30.05.2018; and that based on the willingness a panel was prepared and the petitioner was appointed as Junior Assistant by Transfer of Service on 19.07.2018.

15. The respondent by the counter affidavit further contended that though in the Approved Service Regulations, it is mentioned that the Typist



who have completed 5 years of service are eligible for promotion to the post of Assistant they cannot be elevated as Assistant directly since, feeder category for the promotion to the post of Assistant is Junior Assistant; that in order to give opportunity to the Typists a proposal was placed before the Authority that initially they have to be appointed as Junior Assistant by transfer of service from Typist and thereafter after completion of 1 to 2 years of service they may be promoted as Assistant and the same was approved by the Authority vide proceeding dated 26.10.2007.

16. The respondent by the counter affidavit further contended that as the petitioner gave representation for promotion to the post of Junior Engineer (Electrical) by transfer of service from the post of Typist, is very well aware about the transfer of service to the post of Junior Assistant from Typist and the need to give willingness; thus, the contention of the petitioner that he realized the same only after receipt of memo dated 09.08.2016 is not correct. Contending as above, the respondent seeks for dismissal of the Writ Petition.

17. I have taken note of the respective contentions urged.



Assistant. Thus, the claim of the petitioner that he becoming eligible could to be granted for promotion to the post of Junior Assistant on completion of 5 years automatically is without any substance and basis.

20. Further, the post of Junior Assistant is to be filled up by way of Direct Recruitment and also by way of promotion from the feeder category in the ratio of 5:1 i.e., for every six vacancies five vacancies being filled up by Direct Recruitment and one vacancy being from the feeder category by way of transfer of service. Thus, the employees who have secured the eligibility i.e., completion of 5 years of service would be required to make an application expressing their willingness seeking transfer of service and only upon expressing such willingness, the respondent can consider the candidature of the employee from the feeder category against the ratio of 5:1 and thus, not all the employees are automatically entitled for being considered for promotion in the feeder category to the post of Junior Assistant.

21. Though it is contended that by the petitioner that since, he was deputed to work in Secretariat he was not aware of the respondent calling for any willingness to be submitted the said claim made by the petitioner



appears to this Court to be invented only for the purpose of the present Writ Petition, since, the petitioner by his representations dated 20.11.2015 and 09.08.2016 sought for transfer of service from the post of Typist to Junior Engineer (Electrical) and thus, it cannot be construed as the petitioner notice to the process of transfer of service from one category to another.

22. Further, it is also pertinent note that in order to be eligible for being considered for appointment to the post of Junior Assistant by way of transfer of service, against the quota reserved from the feeder category, one is required to complete minimum service of 5 years in the feeder category i.e., Typist/Steno Typist on the crucial date. Since the crucial date for the year 2015 being 31st March, 2015, by which time the petitioner having not completed 5 years of service, the petitioner cannot claim that he became eligible for being considered to the post of Junior Assistant as his services were confirmed only on 23.05.2015.

23. Thus, the contention of the petitioner that he became eligible for promotion to the post of Junior Assistant notwithstanding the fact that the said promotion is by way of a transfer of service and not an automatic promotion is also liable to be rejected.



24. Further, as noted herein above, since, the promotion to the post of Junior Assistant not being a time bound promotion and is by way of transfer of service from existing category, such transfer can only be undertaken as and when the vacancies arise. Though the petitioner had placed reliance on the proceedings of the respondent dated 04.06.2014 to substantiate his claim of becoming eligible for being considered for promotion, as noted herein above, the petitioner having completed 5 years of service only on 23.05.2015, would become eligible for being considered and appointed to the post of Junior Assistant by way of transfer of service only on the crucial date for preparation of panel i.e., on 31.03.2016 and not earlier. Thus, the reliance placed by the petitioner on the proceedings dated 04.06.2014 as noted herein above would not apply to the case of the petitioner since, the petitioner did not complete 5 years of service by then and is wholly irrelevant and misplaced.

25. The petitioner while claiming of he being eligible for promotion to the post of Junior Assistant did not place on record any proceedings issued by the respondent in the year 2016 and the respondent ignoring the candidature of the petitioner, notwithstanding the fact that the petitioner did



not submit his willingness to the post of Junior Assistant by way of transfer of service. That apart, the petitioner also cannot feign ignorance of requirement to submit willingness on the ground that the same is not prescribed in the Rules, as the proceedings dated 04.06.2014 on which reliance is placed by the petitioner (though not applicable as noted herein above) mentions about the employees requiring to opt for the post of Junior Assistant by submitting their willingness on or before the specified date.

26. In absence of the petitioner placing any material on record to show the respondent having undertaken the exercise to fill up vacancies in the post of Junior Assistant by transfer of service from the category of Steno Typist/Typist during in the year 2016-2017 and thereafter, as noted herein above since, the filling up of vacancy is not by way of a time bound promotion but only on account of arising of vacancies and the respondent having appointed the petitioner to the post of Junior Assistant on 19.07.2018 which promotion the petitioner had accepted without any protest, this Court is of the view that the petitioner cannot claim of he being required to be appointed to the post of Junior Assistant in the year 2015 or that the respondent are required to fix the seniority retrospectively from 2015.



27. The claim of the petitioner to fix seniority can only be in the category of Typist and not in the category of Junior Assistant as the petitioner was not born in the cadre of Junior Assistant in the year 2015.

28. Insofar as the claim of the petitioner by his representations dated 20.03.2019 and 05.04.2019 of being required to be appointed to the category of Assistant is concerned, the copy of Regulation as filed by the petitioner along with writ petition provides for appointment to the category of 'Assistant' by way of Direct Recruitment and there is no mention of recruitment by promotion nor the ratio. As per the Regulations the post of 'Assistant' is specified in category -3 and the qualifications prescribed is as under: (i) must possess a degree and must have experience in category-5 for period of not less than 3 years; or 2 (ii) must have experience in category-5 or 7 or 8 for a period of not less than 5 years.

29. However, a reading of Regulation as filed by the petitioner would also show that the same are not complete Regulations which are published and notified as after Regulation-7 dealing with pay of each of the category of employee. Once again Regulation-5 dealing with the procedure for imposing major penalty is mentioned and a close look at the copy as filed into this Court would show that page Nos.31 and 32 of the said Regulations is



missing and not filed. Thus, this Court is of the view that the said Regulation as filed into this Court cannot be considered as the true extract of the Regulations.

30. The Draft Service Regulations of Madras Metropolitan Development Authority were approved by the Government vide G.O.Ms.No..210, Housing and Urban Development Department dated 26th February 1980. From a reading of the Regulations as approved by the Government contains five (5) sections and Section – III deals with Special Regulations and covers six classes of services under clause ‘A’ to ‘F’ and the category of post of Steno–Typist and Typist in which the petitioner was appointed is specified in class ‘F’ service under the heading ‘Madras Metropolitan Development Authority Non–Technical Subordinate Service Regulations, 1980.

31. The specific Regulations as framed for the category of posts Specified in Regulations ‘2’ thereof contains in all ‘7’ Regulations. Regulations No.3 deals with ‘Method of Appointment’. Insofar as appointment to the post of ‘Assistant’ in category–3 the method of appointment is concerned the same is specified as under:

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	Name of Post	Method of Section
Category – 3	Assistant	(i) By direct recruitment; or
		(ii) By promotion from category – 5; or
		(iii) By deputation of Assistant in the Tamil Nadu Secretariat Service or in the Tamil Nadu Ministerial Service.

Similarly, for appointment to the post of ‘Junior Assistant’ in category – 5 the method of appointment is specified as under:

	Name of Post	Method of Section
Category – 5	Junior Assistant	(i) By direct recruitment; or
		(ii) By appointment by transfer from categories 7 and 8

Regulation No.5 of the Regulation deals with ‘special qualifications’ and reads as under:

“5. Special qualifications:- No person shall be appointed to any category specified in column (1) of the Table below unless he possess the qualifications specified in the corresponding entries in column (2) thereof:-

In the table forming post of the special qualification in relation to the appointment to the post of ‘Assistant’ in Category – 3 the qualifications are prescribed as under:

	Name of Post	For direct recruitment
Category – 3	Assistant	(i) Must possess a degree and must have experience in category 5 for a period of not less than three years; or
		(ii) Must have experience in category’ 5 or 7 or 8 for a period of not less than five years.



32. A reading of the above qualification as prescribed in the table of Regulation No.5 under the heading 'special qualification' as applicable to the post of 'Assistant' in category-3 under Non-Technical Subordinate Service Regulation, shows the same is in two parts. The first part requires possessing of a degree along with the experience of not less than 3 years in category-5, the second part while being silent with regard to possessing degree, requires that the employee must have experience in category-5 or 7 or 8 of not less than 5 years. Though from a plain reading it may appear that there is some inconsistency between Sub-clauses (i) & (ii), it is to be noted that Regulation No.5 is to be read in conjunction with Regulation No.3 and not in isolation. Thus, if one takes note of the method of appointment specified in Regulation No.3 for the post of 'Assistant', and the qualification prescribed in Regulation No.5, it would be clear that in order to be appointed to the post of 'Assistant' on promotion by way of transfer of service, one must be working in the category – 5 that is, Junior Assistant or by Deputation of Assistant in the Tamil Nadu Secretariat Service or in Tamil Nadu Ministerial Service; and should possess one of qualification (i) possessing a degree along with experience in category -5 for a period of not less than 3 years to or (ii) have experiencing category – 5 or 7 or 8 for a period of not less than five years. Thus, the first pre-condition as per



Regulation No.3 being working in category-5 i.e., Junior Assistant, it is only upon fulfilling the said pre-condition, the requirement specified in Regulation No. 5 of the Regulations would apply. It is not unfathomable for this Court to take note of the fact as to why petitioner chose not to file P.31 & 32 of the Regulations along with material papers. It is only when this Court obtained the entire copy of G.O.Ms.No.210 dated 26.02.1980, the above aspects were noticed.

33. Further, as per Regulation No.3, the post of 'Assistant' requires an employee to be working in category-5. Thus, it is only employees who are working as 'Junior Assistant' or other employee working on deputation in the Tamil Nadu Secretariat Service or Tamil Nadu Ministerial Service would be eligible for being promoted to the post of 'Assistant'. It is also to be noted that the inclusion of category-7 & 8 under 'Special Qualification' cannot bypass the method of appointment and by applying the principle of harmonious construction, it is to be held that in order to be appointed as 'Assistant', one is required to satisfy the one of the qualification specified in Regulation No.5 and not vice-versa.



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T. VINOD KUMAR, J.

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**Pre-Delivery Order in
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