

(2009) 04 MAD CK 0190
In the Madras High Court
Case No : Writ Petition No. 9194 of 2004

N. Ravichandran

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 21-04-2009

Acts Referred:

Constitution of India, 1950 — Article 187(3), 226

Citation : (2009) 04 MAD CK 0190

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : Balan Haridas, for the Appellant; V. Viswanathan, AGP, for the Respondent

Judgement

M. Jaichandren, J.—Heard the learned Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2. This writ petition has been filed praying for a writ of certiorarified mandamus, to quash the order of the first respondent, dated 25.2.2003,

denying employment to the petitioner and to direct the respondents to reinstate the petitioner and to regularise his services, as an Office Assistant, with full backwages, continuity of service and other attendant benefits.

3. The main contention of the learned Counsel for the petitioner is that he had joined in service with the first respondent, as an Office Assistant, in

the year 1989. Since then he has been discharging his duties without any blemish. While the first respondent had regularised the services of his

juniors, the petitioner had not been regularised in service. On the contrary, the first respondent had denied employment to the petitioner by passing

the impugned order, dated 25.2.2003. In such circumstances, the petitioner has

preferred the present writ petition before this Court, under Article 226 of the Constitution of India.

4. The learned Counsel appearing on behalf of the respondents had submitted that the petitioner had been employed, as an Office Assistant, on lump sum payment, during the Legislative Assembly Sessions. It is the usual practice of the respondents to engage Assistants and Office Assistants, on payment of lumpsum amounts, to assist the regular staff of the Legislative Assembly Secretariat, due to the increased workload, whenever meetings were held by the Assembly. Such persons are employed without following the usual procedure of recruitment, the Government policy of reservation and other qualifications, including educational and age qualifications. For permanent appointments to be made the procedures prescribed by the Tamil Nadu Legislative Assembly Secretariat Service Rules, which have been framed by the Governor, in consultation with the Speaker of the Assembly, under Article 187(3) of the Constitution of India, are to be followed. Therefore, persons like the petitioner who were appointed on a temporary basis, without following the procedures prescribed by the rules, get automatically discharged at the end of the Sessions. Since such appointments are made only during the Assembly Sessions, they do not confer any right on the appointees, for being regularised in service, contrary to the service rules. The temporary appointments are made under the special powers given to the Tamil Nadu Legislative Assembly Secretariat to cope up with the increase in the workload during the Assembly Sessions. However, permanent appointments can only be made under the provisions of the Tamil Nadu Legislative Assembly Secretariat Service Rules. Therefore, the petitioner cannot claim a right to employment, merely on the basis that he is possessing the requisite qualifications. For regular recruitment educational qualifications, age, communal rotation and the reservation procedures prescribed by the Government have to be followed. The petitioner cannot claim that he would have a right for being employed in the Secretariat service, since some of his juniors were given employment. If such appointments are found to be contrary to the rules and the procedures established by law, they would be terminated from service.

5. In view of the submissions made by the learned Counsels appearing on behalf

of the petitioner, as well as the respondents, this Court is of the considered view that the petitioner has not shown sufficient cause or reason for granting the relief, as prayed for by him in the present writ petition.

However, in view of the submissions made on behalf of the petitioner it is found to be appropriate to permit the petitioner to submit a

representation to the first respondent, with regard to the reliefs sought for in the writ petition, within fifteen days from today. On such representation

being made, the first respondent is directed to dispose of the same, on merits and in accordance with law, within a period of twelve weeks

thereafter.

With the above directions, the writ petition stands closed. No costs.