2026:MHC:4600

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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14-10-2026

PRONOUNCED ON : 17-11-2026

CORAM

THE HON'BLE Mr.JUSTICE C.KUMARAPPAN

Case QR

WP No. 16343 of 2024

CNR:{HCMA010843472024}

AND

WMP Nos.17892 & 17893 OF 2024

T.Sundaramoorthy
Estate Assistant,
O/o. The Official Liquidator,
High Court, Madras, Corporatee Bhavan,
2nd Floor, No.29, Rajaji Salai, Chennai-600 001.

..Petitioner(s)

Vs

1. The Secretary
   Government Of India,
   Ministry Of Corporate Affairs,
   5th Floor, A Wing, Shastri Bhavan,
   Dr.Rajendrea Prasad Road, New Delhi-110 001.
2. The Regional Director
   Ministry Of Corporate Affairs, 5th Floor,
   Shastry Bhavan, No.26, Haddows Roads,
   Chennai-600 006.
3. The Official Liquidator
   Attached To The Honorable High Court of
   Madras,
   No.29, Rajaji Salai 2nd Floor,
   Corporate Bhavdan, Chennai-600 001.
4. The Secretary
   Department Of Personnel & Training
   Ministry Of Personnel Public Grievance &
   Pension, Government Of India, North Block,
   Room No.112, New Delhi-110 001.

..Respondent(s)

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Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the record of the impugned proceeding vide F.No. 1(492)/2018 dated 16.10.2018 passed by the 2nd respondent and quash the same as null and void and consequently direct the respondents 1 and 2 herein to pass appropriate order, enabling the petitioner to be absorbed in to Government Service as Junior Technical Assistant from the date of entry into service dated 03.08.1992 with all service and monetary benefits with reference to the guidelines issued by the Hon'ble Supreme Court in its Civil Appeal No. 5642/1994 dated 27.08.1999.

For Petitioner(s): Mr.T.Sundaramoorthy
Party-in-person
For Respondent(s): Mr.A.Kumaraguru
SPC for RR1 & 2.

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ORDER

This Writ Petition has been filed challenging the impugned proceeding dated 16.10.2018.

2.Heard the petitioner-in-person and the learned Senior Panel Counsel appearing for the respondents.

3(a).The petitioner in person would submit that he was appointed as an Estate Assistant [company paid staff] in the office of the Official Liquidator High Court of Madras on 03.08.1992. Subsequently, he has completed Master degree and Bachelor of Law and that he has completed 32 years of a continuous service. It is his specific submission that the Hon'ble Supreme Court in ***Civil***

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Appeal No.5642 of 1994 dated 27.08.1999 [Government of India and others Vs. Court Liquidator's Employees Association and others] has directed the Government to frame the scheme for absorbing temporary company paid staff into a regular Government service and in pursuance thereof, there was a scheme formulated to identify and fill the vacancies arising from 27.08.1999 to 31.12.2000. A Selection Committee has prepared a panel and in the panel, the petitioner stood as serial number 14 for the Junior Technical Assistant post and serial number No.17 for a Lower Division Clerk. It is further submission that in respect of a Junior Technical Assistant post, up to the serial number 13 was appointed and regularized. Subsequently, the petitioner has given various representations and based upon the direction of the Central Administrative Tribunal in OA.No.881 of 2018 dated 10.07.2018, the representation of the petitioner was considered, but was rejected vide impugned order dated 16.10.2018. Aggrieved with the same, the present Writ Petition has been filed.

(b).It is the contention of the petitioner that the judgment of the Hon'ble Supreme Court is binding upon the respondents. Therefore, he is liable to be absorbed in accordance with the direction of the Hon'ble Supreme Court. It is also his contention that when persons placed upto the Serial No.13 were already absorbed, the question of denying absorption to the petitioner, who is placed at

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Serial No.14 is nothing but a discrimination and would impinge upon his Constitutional right provided under Article 14 and 16 of the Constitution of India. It is his specific contention that the impugned order did not take into consideration of the direction of the Hon'ble Supreme Court. Hence, prayed to interfere with the impugned order.

4.*Per contra*, the said contention was stoutly objected by the learned Senior Panel Counsel and would contend that as per the Department of Personnel and Training [DOPT] Official Memorandum dated 09.04.2009, the post of Junior Technical Assistant was reclassified from Group C post to Group B post since 09.04.2009. Further, the Recruitment of Lower Division Clerk was abolished across all Ministry of Corporate Affairs and therefore, the secondary panel prepared for the absorption of the said post become redundant. It is his further contention that the petitioner's previous representations had already been rejected, however without challenging those rejections, the petitioner continued to give representations and based upon the last rejection, the petitioner has come up with the present writ petition. The learned Senior Panel Counsel would also contend that a similar issue has already been dealt by the Division Bench of this Court in ***WA.No.2237 of 2022 dated 27.03.2024 [B.Vijayakumari and others Vs. The Union of India and others]***, wherein the very prayer to give parity as

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that of the Supreme Court order in Civil Appeal No.5642 of 1994 dated 27.08.1999 was rejected. Hence, would contend that the present Writ Petition is also liable to be dismissed.

5.I have given my anxious consideration to either side submissions.

6.In the case in hand, many of the facts are not in dispute. The main ground urged by the petitioner is that he was placed at Serial No.14 in respect of an absorption and that upto Serial No.13 have already been absorbed as Junior Technical Assistant. This fact is not in dispute. However, it is the specific submission of the learned Senior Panel Counsel that the absorption took place subject to the availability of the vacancy and that no vacancy had arisen until 2009, so as to absorb the petitioner to the post of a Junior Technical Assistant. Whereas during 2009 viz., on 09.04.2009, the Government took a policy decision on the basis of the 6th pay commission, wherein the recruitment for the post of a Lower Division Clerk was abolished. Similarly as per the office memorandum dated 09.04.2009, the Junior Technical Assistant post was reclassified from Group C to Group B. Therefore, it is his contention that the absorption to Group B post does not arise, and in respect of a Lower Division Clerk, since such post was abolished, even the absorption to the post of Lower Division Clerk become impossible.

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7.Though the petitioner relies parity, now that the Government took a policy decision in the year of 2009 and such policy decision was not challenged by the petitioner. Therefore, it is crystal clear that seeking an absorption in the post of a Junior Technical Assistant is only based upon the order passed in Civil Appeal No.5642 of 1994 dated 27.08.1999. In this regard, the learned Senior Panel Counsel would contend that the order of the Hon'ble Supreme Court in Civil Appeal No.5642 of 1994 has held as follows:-

> *"However, we want to give an opportunity to the appellants in the interest of justice and to balance the equities between the parties to come forward to accept and act on the first option given in the additional affidavit, as extracted above, and absorb the Company Paid Staff working both under the Court Liquidator in the Calcutta High Court and the Official Liquidator in other High Courts by framing a Scheme modelled on the 1978 Scheme within six months. In other words, we stay the operation of the judgment of the High Courts under appeal and the order in W.P(C).No.473/1988 for a period of six months to enable the appellants to frame the Scheme as suggested above and to give effect to it, failing which the judgments under appeal and the order in W.P.(C).No.473/1988 will stand confirmed."*

While looking into the orders in Civil Appeal No.5642 of 1994, there was a direction to formulate a scheme. In this connection, the learned Senior Panel Counsel would contend that only based upon the direction of the Hon'ble Supreme Court, they have formulated the scheme. However, before the vacancy arose for the petitioner, the Government took a policy decision to bring the

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Junior Technical Assistant post under Group B cadre and the recruitment for Lower Division Clerk was totally abolished. It is his contention that as per the Government policy, only with respect to the Group C post, an absorption could take place. Whereas, since the Junior Technical Assistant post was placed under Group B, the question of absorption will not arise.

8.Though the petitioner relies upon the judgment of the Hon'ble Supreme Court in ***Civil Appeal No.5642 of 1994***, now that the Government took a policy decision to keep Junior Technical Assistant post under Group B cadre. When the Government took such a policy decision and the Rules provides that only the absorption could be done for Group C post, the question of seeking implementation of the order of the Hon'ble Supreme Court in ***Civil Appeal No.5642 of 1994 dated 27.08.1999*** though initially was complied with, to some reason did not give any fruitful result to the petitioner.

9.In this connection, the learned Senior Panel Counsel relied upon the Division Bench judgment in ***WA.No.2237 of 2022 dated 27.03.2024*** [cited supra], wherein the Division Bench in an identical matter has rejected the claim for absorption. The relevant portion of the above judgment is as follows:-

> *"7. It is not in dispute that the appellants were appointed as Estate Clerks in the office of the Official Liquidator, High Court of Madras during the periods 1981-1989 and they have been working as such, till date. However, their services have not been*

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regularised. It is also not in dispute that several similarly situated employees working in other Official Liquidators' offices in Kerala and Delhi were regularized, even though they were juniors to the appellants. The appellants state that they should have been regularized as Lower Division Clerks (LDCs) as per the absorption scheme framed pursuant to the Supreme Court's directions in Civil Appeal No.5677 of 1994, in view of the fact that they have been working continuously for more than 30 years and they are qualified to hold the post of LDCs. Therefore, the order of the learned Judge directing the respondents to grant regularisation to the appellants, as and when vacancies arise, is unjustified and contrary to the scheme. Whereas, it is the stand of the respondents that the absorption scheme was merely an one-time measure and not a mandatory requirement, and the respondents have not acted arbitrarily or illegally in not absorbing or regularizing the appellants."

10.The learned Senior Panel Counsel has also relied upon the order of the learned single Judge in ***WP.No.9645 of 2023 dated 30.09.2024 [R.Jagadeesan Vs. Union of India and others]***. The relevant portions of the above order is extracted hereunder:-

"14. It is also pertinent to note that there were six petitioners in W.P.No.6832 of 2019 and out of the same, at least four of the petitioners were above the petitioner herein in the list that was prepared pursuant to the scheme framed by the Government of India. The petitioner was placed at S.No.62 in that list. Further, W.A.No.2237 of 2022 came to be dismissed by a Division Bench of this Court by judgment dated 27.3.2024, the relevant portions of which are extracted as hereunder :

"7. It is not in dispute that the appellants were appointed as Estate Clerks in the office of the Official Liquidator, High Court of Madras during the periods 1981-1989 and they have been working as such, till date. However, their

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8. In the judgments relied on by the learned Additional Solicitor General for the respondents, the Kerala High Court in C.B. Lalithakumari (supra) and the Division Bench of this Court in W.P.No.27213 of 2021, have set aside the orders granted by the Tribunal, with respect to absorption and regularisation of services of Estate Clerks, considering two key aspects: one is the delay and laches in prosecuting the matter, and secondly, similarly placed persons had been granted such benefit based on the decision of the Apex Court and in accordance with the scheme and that, the appointment order issued to them was not challenged before any court of law. That apart, both the High Courts upheld the principle that back door entries and appointments contrary to the constitutional scheme, cannot be regularized.

9. Pertinently, it is to be pointed out that the appellants remained silent for several years, after their initial appointment as Estate Clerks. The Kerala High Court in C.B. Lalithakumari (supra), held that though a positive direction was issued in O.P.No.9732 of 1990 to absorb

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the applicants in service from the date of their appointments, when the matter was taken up before the Apex Court, after rejecting the appeals filed by the Union of India, the Government was permitted to frame a scheme for their absorption, pursuant to which, the applicants were absorbed in service in the year 2000.

O.P.No.249 of 2002 came to be filed by the persons who were not absorbed, but who were parties to the proceedings in O.P.No.9732 of 1990 seeking a direction to absorb them in service and the said original petition came to be allowed based on the directions passed in O.P.No.9732 of 1990. The Supreme Court did not interfere with the order granted in O.P.No.249 of 2002, but observed:

'Civil Appeals are dismissed leaving the question of law open. However, this may not be taken as precedent for future cases'.

The appellants in the present case were not absorbed pursuant to that scheme, but had been working as Estate Clerks since their initial appointment between 1981 and 1989. They did not challenge their non-absorption or non- regularization for several years and they raised this issue belatedly (i.e.), after three decades post their slumber. At this juncture, it is to be noted that the orders benefiting other similar employees cannot be treated as precedents for future cases, especially when the beneficiaries themselves delayed acting on time."

15. …..

16. In the light of the said judgment dated 27.3.2024 rendered by the Division Bench of this Court in W.A.No.2237 of 2022, this Court cannot take a different view in this writ petition and judicial discipline requires that as a Single Judge, this Court must fall in line with the said judgment rendered by the Division Bench of this Court. If the other similarly placed persons were not given relief by the Division Bench of this Court, as a Single Judge, there is no scope for granting the relief in favour of the petitioner also. This Court has already held that the cases of the said Mrs.S.Usharani and the said Mr.K.M.Wilson stand on a different footing as the relief was granted

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to them by the Apex Court.

17. In the light of the above discussions, the relief as sought for by the petitioner cannot be granted. However, the right of the petitioner is kept intact and depending upon the final result in the pending special leave petition in S.L.P.(Civil) No.13124 of 2024 filed against the judgment dated 27.3.2024 in W.A.No.2237 of 2022, the petitioner can revive the claim in future. Except giving this clarity, no further orders can be passed in this writ petition."

11.Apart from that, according to the impugned order, the petitioner had been consistently giving representations and that the same was not considered by the respondent. But, it is the case of the respondent that all those representations have been already rejected. Now the petitioner is heavily relies upon the judgment of the Central Administrative Tribunal in OA.No.180/01015/2018 dated 23.06.2023. However, while looking into the factual position of the resported case, since there was regularization overlooking the petitioner in the reported case, he was ordered to be regularised. Only in that context, there was a direction to the authorities that there should not be any pick and choose method while regularizing the petitioner.

12.Whereas in the case in hand, it is not the defence of the petitioner that his junior was regularized. Therefore, this Court is the firm view that in view of the change in policy of the Government, the question of absorbing the petitioner in a Junior Technical Assistant will not arise, as that post now upgraded to

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Group B. In respect of a Lower Division Clerk, since the post is abolished, and based upon the Division Bench judgment of this Court in ***B.Vijaykumari'***s case [cited supra], this Court absolutely does not find any merits in the present writ petition.

13.Accordingly, the present writ petition stands dismissed. No costs. Consequently, connected WMPs are also closed.

17-11-2026

Index: Yes
Speaking order
Neutral Citation: Yes
KMI
To

1. The Secretary
   Government Of India, Ministry Of Corporate Affairs, 5th Floor,
   A Wing, Shastri Bhavan, Dr.Rajendrea Prasad Road,
   New Delhi-110 001.
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