

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21 .11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.20127 of 2013

S.Elizabeth Mary

.. Petitioner

Vs

1.Tamil Nadu Tourism Development Corporation Ltd,
Rep.by its Managing Director,
No.2, Walajha Road,
Chennai 600 003.

2.Tamilnadu Tourism Development Corporation Ltd,
Rep.by its General Manager,
No.2, Walajha Road, Chennai 600 002.

3.Tamil nadu Tourism Development Corporation Ltd.,
Rep.by its Manager (Administration)
No.2, Walajha Road,
Chennai 600 002.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records relating to the order of the 3rd respondent dated 19.01.2010 in Letter No.3278/A2/2009 and order dated 19.07.2011 in K.Dis.Memo No.2692/A2/2010 and the consequential order of the 2nd respondent dated 27.03.2012 in Memo No.870/A2/2012, and quash the same and consequently direct the respondents to forthwith promote the petitioner as the Accounts Assistant in the Respondent-Corporation with effect from 05.04.2008 with all other attendant and monetary benefits.

WEB COPY

For Petitioner :Mr.K.Selvaraj

For Respondents:Mr.S.T.S.Murthy

Additional Advocate General
Assisted by Mr.RAS.Senthilvel
Government Advocate.

O R D E R

The petitioner's requests to be promoted to the post of Accounts Assistant in the Tamil Nadu Tourism Development Corporation was rejected on 19.07.2011 on the ground that the feeder post of Accounts Assistant is Store Keeper (Hotel) and since the petitioner is a Telephone Operator, her request cannot be complied with. Challenging the order, rejecting the petitioner's request, she has filed the present writ petition.

2. Heard Mr.K.Selvaraj, learned counsel appearing for the petitioner and Mr.S.T.S.Murthy, learned Additional Advocate General assisted by Mr.RAS.Senthilvel, learned Government Advocate appearing for the respondents.

3. The learned counsel for the petitioner would submit that the feeder category for the post of Accounts Assistant is from any lower category and since the petitioner possesses B.Com., degree with Diploma in better application (Tally Specialization) he candidature ought to be considered for promotion to the post of Accounts Assistant. The learned counsel for the petitioner would submit that earlier the petitioner was directed to look after the work of Accounts Assistant, which has been done by her for the past five years and therefore, she is entitled to be promoted as Accounts Assistant and by relying upon the service regularisation of the Tamil Nadu Tourism Development Authority, which provides the mode of promotion to the post of Accounts Assistant from the lower category, if he secures qualification prescribed .

4. Per contra, the learned Additional Advocate General would draw my attention to the Service Regularisations with regard to the mode of promotion for the post of Accounts Assistant for the Hotel Division. The learned Additional Advocate General would further submit that the mode of promotion prescribed therein is from Store Keeper, Bill Clerk or Cashier with a degree in Commerce. He would further submit that the term " immediate lower category" for the post of Accounts Assistant is Store Keeper and since the petitioner is a Telephone Operator in the Hotel Division, which is lower in category to the post of Store Keeper, her request cannot be acceded to. Further more, the scale of pay of the Telephone Operator is Rs.4800-10,000 + G.P. Rs.1400, whereas the scale of pay of the Store Keeper is Rs.5200 - 20200 + G.P.Rs.1800 and the scale of pay of Accounts Assistant is Rs.5200-20200 + G.P.Rs.2000 and hence, the petitioner who was holding the post of Telephone Operator, cannot be considered to be in the immediate lower category. Therefore, he submitted that the respondents were justified in rejecting the petitioner's request.

5. I have given careful consideration to the submissions made by the respective counsels.

6. The case in hand revolves on the ground as to what could be the post which can be deemed to be the Feeder Category for the post Accounts Assistant. On a perusal of the TTDC Service Regularisation 1998, the mode of promotion for the post of Accounts Assistant prescribed thereunder is "from lower category if he acquires qualification prescribed under the Service Regularisation, 1979 for the " Hotel Division", The qualification prescribed for the post of Accounts Assistant is B.Com.

7. The mode of recruitment for the post of Telephone Operator is by direct recruitment and the qualification prescribed for the post of Telephone Operator is the Telephone Operator course from a recognised institute, whereas, the mode of recruitment for the post of Store Keeper is by promotion and the feeder post for the Store Keeper prescribed therein is bill clerk with experience of not less than 5 years. The scale of pay for the post of Telephone Operator is Rs.4800-10000+ G.P.1400, whereas the scale of pay of Store Keeper (Hotel) is Rs.5200-20200 + Grade Pay Rs.1800/-. In view of the difference in the mode of recruitment, qualification and the scale of pay between these two posts, the post of Telephone Operator cannot be said to be of the same cadre as that of the post of Store Keeper.

8. The learned counsel for the petitioner would submit that the third respondent has issued a circular dated 23.05.2013, wherein, the respondent had sought for particulars of the qualified employees in "any other immediate lower category" for the post of Accounts Assistant with B.Com. (Tally qualification) and therefore, he would submit that by reference to any other immediate lower category, the petitioner who is a Telephone Operator, is qualified to be promoted to the post of Accounts Assistant.

9. I do not see any force in the submission made by the learned counsel for the petitioner since the Service Regulation is very clear with regard to describing the Feeder Category for the post of Accounts Assistant. By just relying upon the phrase any other " immediate lower category", it would not mean that all employees in the lower category of an Accounts Assistant will automatically become eligible to be promoted to the post of Accounts Assistant.

10. The other point raised by the learned counsel for the petitioner that the petitioner earlier worked as an Accounts Assistant also and therefore, ought to be given preference for promotion has no force. On a perusal of the order dated 19.07.2011, the petitioner who was then working as a Telephone Operator was 'temporarily' posted to the post of Bill clerk to handle the accounts work of the Hotel. A temporary arrangement to look after the work of a Bill Clerk who was on leave, cannot give any legal right to the petitioner as being qualified to be promoted.

11. In view of the above findings, I am of the view that the petitioner who is holding the post of Telephone Operator, is not entitled for promotion to the post of Accounts Assistant, since the Feeder Category to the post of Accounts Assistant is the post of Store Keeper. Hence, the writ petition is liable to be dismissed. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Managing Director,
Tamil Nadu Tourism Development Corporation Ltd,
No.2, Walajha Road,
Chennai 600 003.

2.The General Manager,
Tamilnadu Tourism Development Corporation Ltd,
No.2, Walajha Road, Chennai 600 002.

3.The Manager, (Administration)
Tamil nadu Tourism Development Corporation Ltd.,
No.2, Walajha Road, Chennai 600 002.

+1cc to M/S.K.Selvaraj, Advocate Sr.67559
+1cc to M/S R.A.S.Senthilvel, Advocate Sr.68863

W.P.No.20127 of 2013

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srg 21/12/2016