

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.06.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.19246 of 2016

P.Sakthivel

... Petitioner

Vs.

- 1.The Chief Secretary to Government,
Fort St. George,
Chennai - 600 009.
- 2.The Additional Chief Secretary-cum-Secretary to CM,
Fort ST. George,
Chennai - 600 009.
- 3.The Secretary to Government,
Commercial Taxes and Registration Department,
Fort ST. George,
Chennai - 600 009.
- 4.The Principal Secretary / Commissioner of Commercial Taxes,
Ezhilagam,
Chepauk, Chennai - 600 006.
- 5.The Joint Commissioner (Administration),
O/o. The Commissioner of Commercial Taxes,
Ezhilagam,
Chepauk, Chennai - 600 006.

6.C.Palani

... Respondents

(impleaded vide order dt.14.06.2016
passed in WMP.No.17287/16 in W.P.No.19246/16)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents to issue the promotional order to the petitioner to the post of Additional Commissioner by disposing of the petitioner's representations' dated 17.06.2015, 24.02.2016, 30.03.2016, 13.04.2016 and 04.05.2016, in the light of the regular seniority list drawn vide G.O.Ms.No.16, Commercial Taxes

and Registration E2 Department, dated 27.02.2013, within a time frame.

For Petitioner	: Mr.P.Wilson, SC for Mr.T.Ayngaraprabhu
For R1 to R3	: Mr.K.Rajendraprasad, GA
For R4 & R5	: Mr.A.Kanmani Annamalai, AGP (T)

ORDER

By way of filing this writ petition, the petitioner seeks a direction to the respondents to issue the promotional order to him to the post of Additional Commissioner by disposing of his representations dated 17.06.2015, 24.02.2016, 30.03.2016, 13.04.2016 and 04.05.2016, in the light of the regular seniority list drawn vide G.O.Ms.No.16, Commercial Taxes and Registration E2 Department, dated 27.02.2013.

2. After elaborate argument, learned Senior counsel for the petitioner, by restricting his prayer, sought for only a limited direction to the authorities concerned to consider his claim in the light of the judgment of the Hon'ble Division Bench of this Court in CMP No.5507 of 2016 in W.A.No.373 of 2016 etc., dated 11.04.2016. According to him, during the interim period, even though the writ appeal is pending for final disposal, the concerned authority will have to consider his claim for promotion notionally subject to the result of the writ petition. It is his further contention that the promotion panel drawn on 01.01.2015 was already approved by the Hon'ble Chief Minister way back in the month of January' 2015.

3. Learned counsel appearing for the sixth respondent submitted that since the sixth respondent is ranked at No.4 in the post of Joint Commissioner, he is eligible to be considered for the post of Additional Commissioner. However, the writ petitioner, who is now working in the post of Deputy Commissioner which is not even in the feeder category to the post of Additional Commissioner, cannot be considered for promotion to the post of Joint Commissioner. Therefore, the sixth respondent will have to be given an opportunity of hearing before passing the final order.

4. It is submitted by the learned Government Advocate appearing for the respondents 1 to 3 that since the final order is to be passed only on 30.06.2016 in W.A.No.2280 of 2010, the said issue is now kept in abeyance.

5. Given the facts and circumstances of the case, it is more appropriate to extract the orders passed in CMP No.5507 of 2016 in W.A.No.373 of 2016, dated 11.04.2016, and the same is held thus:

"On hearing the learned counsel for the parties, we are of the view that these petitions are liable to be disposed of in terms of the interim orders passed by us in M.P.Nos.2 of 2014 in W.A.Nos.155 to 159 of 2014 and M.P.Nos.2 of 2015 in W.P.No.9926 of 2015 on 30.03.2016., i.e., that temporary promotions made, if any, shall be subject to the result of the writ appeals and the writ petitions."

6. From the above, it is very clear that any promotion made, if any, shall be subject to the result of the writ appeals and writ petitions. Thus, by taking note of the same, this Court directs the third respondent to consider the representation of the petitioner and pass orders thereon after affording reasonable opportunity to the petitioner as well as to the sixth respondent, by following the dictum laid down by the Hon'ble Division Bench of this Court as stated above, as expeditiously as possible.

7. With the above directions, the writ petition stands disposed of. No Costs.

rkm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Chief Secretary to Government,
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Chennai - 600 009.
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4.The Principal Secretary / Commissioner of Commercial Taxes,
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5.The Joint Commissioner (Administration),
O/o. The Commissioner of Commercial Taxes,
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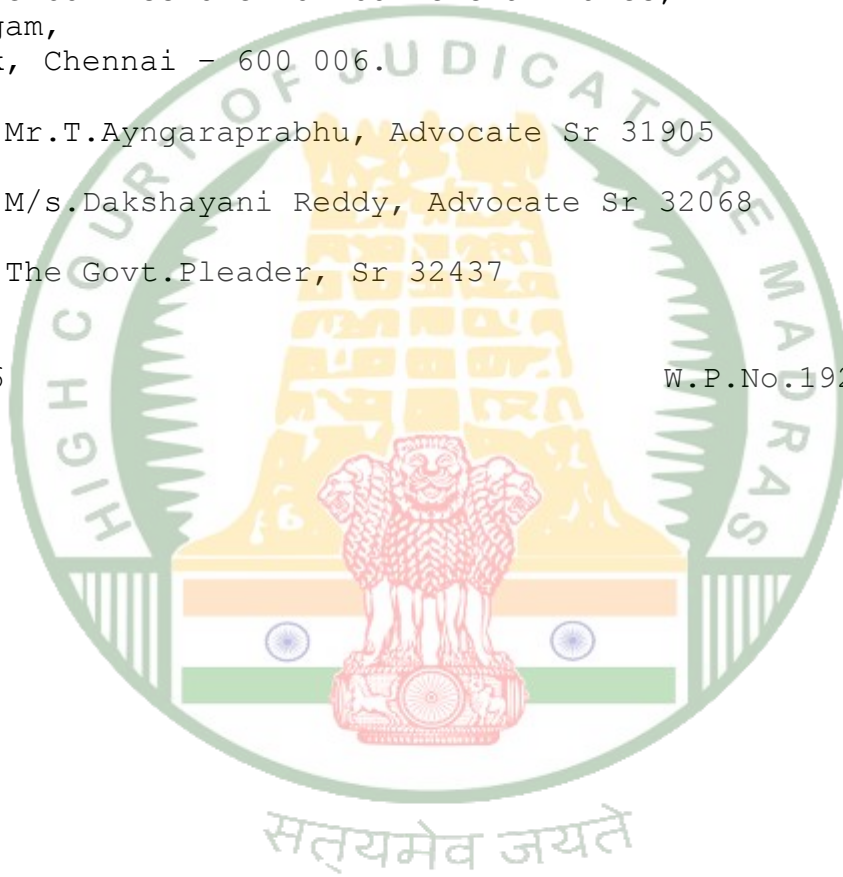
+ 1 cc to Mr.T.Ayngaraprabhu, Advocate Sr 31905

+ 1 cc to M/s.Dakshayani Reddy, Advocate Sr 32068

+ 1 cc to The Govt.Pleader, Sr 32437

KR/17/6/16

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