

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.20158 of 2016
and
WMP No.17343 of 2016

R.Sundaramurthy

.. Petitioner

Versus

1. The State of Tamil Nadu
Rep. by its Addl. Chief Secretary to Government
Tourism, Culture & Religious Endowment Department
Secretariat, Fort St. George,
Chennai-600 009.
 2. The Commissioner of Tourism
Department of Tourism
Tamilnadu Tourism Complex
No.2, Walaja Road, Chennai-600002
- .. Respondents

Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus to direct the second respondent to consider the petitioner's representation dated 18.04.2016 and include the petitioner's name in the temporary panel for the post of Tourist Officer for the year 2014-15 by following the rule of seniority.

For Petitioner : Mr.S.Pushpakaran
For Respondents : Mr.P.Chinnadurai
Government Advocate

ORDER

This Writ Petition has been filed by the petitioner seeking a direction to the second respondent to consider the petitioner's representation dated 18.04.2016 and include his name in the temporary panel drawn for promotion to the post of Tourist Officer for the year 2014-15 by following the rule of seniority.

2. According to the petitioner, he joined the service of the second respondent as Assistant Tourist Officer Grade II on 16.08.1995. After completion of period of probation his service was regularized. On completion of ten years of service he was awarded selection grade on 16.08.2005 in the said post and thereafter no promotion has been given to him inspite of the fact that he completed 20 years of service from the date of his initial appointment. It is further stated that the post of Tourist Officer is to be filled by promotion from the cadre of

Assistant Tourist Officer. Though several post of Tourist officer is lying vacant for several years, no step has been taken to fill up the same. After repeated representations, recently, the respondents have estimated the actual number of vacancy for preparation of a temporary panel on the basis of such estimated vacancy. After a prolonged wait, the first respondent vide G.O.(Ms) No.33, dated 23.01.2016 issued temporary panel for the post of Tourist officer for the year 2014-15 in which the name of 13 persons were included. Based on the temporary panel, first respondent issued G.O.(D)No.14, dated 23.01.2016 for appointment of 13 person as Tourist Officer. Though the petitioner is fully qualified and he is well ahead of others in terms of seniority, his name did not find place in the said temporary panel. Of the 13 persons selected for promotion, 11 persons are junior to him. Since the petitioner is a qualified person having satisfied all the eligibility criteria he expected that his claim for promotion will be given due credence. On the contrary, his name did not find place in the temporary panel and the respondents also did not assigned any reason for exclusion of his name in the said temporary panel. According to the petitioner, the respondents wantonly and willfully omitted his name in the said temporary panel. According to the petitioner, before issuing the order for temporary panel, it is mandatory on the part of the Government to circulate the draft panel to all the branch office with a view to obtain objections from the persons, whose prospects of promotion are likely to be affected, and upon hearing the same revised panel will be released. The vacancy in promotional post of Tourist Officer existed for a long time. If panel was drawn regularly as and when vacancy arose petitioner would have been promoted long back as his seniority is well ahead of other contenders. It is the duty of the employer to recognize the service of the employees by giving them due promotion in time adhering seniority rules.

3. According to the petitioner, highlighting all the above facts, he has sent a representation dated 24.08.2015 to the second respondent even prior to the issuance of the order of temporary panel and requested to include his name in the proposed panel. After issuance of order for temporary panel for promotion to the post of Tourist Officer also, the petitioner has sent several representations to second respondent and last such representation was made on 04.04.2016 and 18.04.2016. However, as there was no response, the petitioner has filed this Writ Petition seeking the aforesaid relief.

4. Heard the learned counsel for the petitioner as well as learned Government Advocate appearing for the respondents. According to the learned Government Advocate appearing for the respondents, as disciplinary proceedings are pending against the petitioner, his claim for promotion has not been considered by the respondents by including his name in the temporary panel.

5. It is seen from the records that even prior to the issuance of the temporary panel released by the respondents,

the petitioner has sent a representation seeking to include his name in such panel for promotion. However, the name of the petitioner has not been included without assigning any reasons. Subsequently, after release of the panel, the petitioner has made representations on 04.04.2016 and on 18.04.2016. Even these representations have not been considered by the respondents. In such view of the matter, having regard to the above facts and circumstances of the case and also the submission of the counsel for both sides, this Court, without expressing any opinion on the merits of the case, directs the second respondent to dispose of the representation of the petitioner dated 18.04.2016, on merits and in accordance with law, as expeditiously as possible.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. The Addl. Chief Secretary to Government,
Tourism, Culture & Religious Endowment Department
Secretariat, Fort St. George,
Chennai-600 009.
2. The Commissioner of Tourism
Department of Tourism
Tamilnadu Tourism Complex
No.2, Walaja Road, Chennai-600002.

+1 cc to Mr.S.Pushpakaran,advocate,sr.48746.

+1 cc to Govt.Pleader,sr.48990.

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krd 23/9

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