

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.41115 of 2016

T.Natarajan

... Petitioner

Vs.

1.The Secretary to Government,
Labour and Employment Department,
Fort St. George,
Chennai-600 009.

2.The Director,
Directorate of Employment and Training,
Thiru Vi Ka Industrial Estate,
Guindy,
Chennai-600 0032.

3.The Regional Joint Director,
Directorate of Employment and Training,
Coimbatore-29. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the first and second respondents to consider the petitioner's name for the post of Principal in the ensuing panel without influenced by the Censure awarded to the petitioner.

For Petitioner : Mr.P.Kannan Kumar

For respondents : Mr.K.Dhananjayan, Spl GP

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ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, directing the first and second respondents to consider the petitioner's name for the post of Principal in the ensuing panel without being influenced by the Censure awarded to the petitioner.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1.The petitioner was appointed as Junior Training Officer with the respondent Department on 16.03.1989 under the Handicapped Quota through Employment Exchange. The

petitioner is a disabled person with 55% disability and his right leg is affected and he has a limited mobility. He was promoted to the post of Assistant Training Officer in the year 1999 and then, to the post of Training Officer, in the month of May, 2012 by the respondents.

2-2. While he was discharging his duties at Erode, during the year 1997, he was directed by the 3rd respondent to attend a Paper Valuation at Coimbatore on 08.09.1997 and the petitioner had also attended the said duty. After completion of Paper Valuation, he was compelled to transport 580 numbers of Certificate to Erode. The petitioner refused to do same by citing his physical disability. But, due to the compelling circumstances created by the 3rd respondent, the petitioner has taken the certificate to Erode. It was a bundle and it was also well packed and he has handed over the same to Erode Institute. The Principal, Industrial Training Institute, Erode, vide his letter No.3518/B3/1997, dated 02.02.1998, issued an Official Memorandum informing the petitioner that one certificate bearing Serial No.134952 is found to be missing. Immediately, the petitioner submitted his explanation on 09.02.1998. Again, the Principal, Industrial Training Institute, Erode issued Memo on 20.12.2012 directing the petitioner to submit his explanation. The petitioner has also given a detailed reply dated 26.03.2013 through the 3rd respondent to the Principal, Industrial Training Institute, Erode.

2-3. Thereafter, according to the petitioner, without considering his explanation, the 3rd respondent vide his proceedings in Se.Mu.Aanai.No.10326/E1/2006, dated 24.07.2014, has passed a final order of censure against the petitioner. It is further stated by the petitioner that during the pendency of the said charge proceedings, the petitioner was promoted two times, one as Assistant Training Officer and another promotion to the post of Training Officer. Now, the petitioner is entitled to be promoted to the post of Principal. The respondents 1 & 2 are preparing the temporary panel for the promotion to the post of Principal, for the period 2014-2015 and 2015-2016. It is averred by the petitioner that the 2nd respondent has orally informed the petitioner that his name would not be included in the promotion panel, since an order of censure was passed against him. According to the petitioner, the censure is not a punishment and it is a mere warning on the individual. Thus, it is claimed by the petitioner that he is entitled to be promoted to the post of Principal. In this regard, the petitioner has given representation dated 11.11.2016 to the 2nd respondent. The petitioner's representations were not considered by the 2nd respondent. Hence, he has come forward with the present writ petition before this Court.

3. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

4.Considering the facts and circumstances of the case and the submissions made on either side, this Court is not inclined to give any positive direction as sought for by the petitioner in the writ petition. However, without expressing any opinion on the merits of the claim made by the petitioner, this Court directs the petitioner to give a fresh representation to the 2nd respondent, along with a copy of this order, within a period of two weeks, from the date of receipt of a copy of this order. On receipt of such representation, the 2nd respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, with a period of three weeks thereafter.

With the above directions, the writ petition is disposed of.

No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary to Government,
Labour and Employment Department,
Fort St. George,
Chennai-600 009.
- 2.The Director,
Directorate of Employment and Training,
Thiru Vi Ka Industrial Estate,
Guindy,
Chennai-600 0032.
- 3.The Regional Joint Director,
Directorate of Employment and Training,
Coimbatore-29.

+1 cc to Mr.P.Kannankumar,advocate,sr.71027

+1 cc to Govt.Pleader,sr.71259

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