

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.41116 of 2016

K.Rajan

... 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 Deputy Director / Principal
Government Industrial Training Institute,
Salem-636 007. ... 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

* * * * *

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 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 17.10.1988

under the Handicapped Quota through Employment Exchange. The petitioner is a disabled person with 60% disability and his left leg is affected by polio 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 on 25.11.1998 and then, to the post of Training Officer on 29.06.2012 by the respondents.

2-2. While he was discharging his duties with the third respondent, on 18.02.2013 the 3rd respondent is alleged to have inspected the office premises and found that the petitioner was not present and as such, the 3rd respondent issued a memo to the petitioner calling for his explanation. According to the petitioner, on the said day ie., on 18.02.2013, the petitioner was sick and after taking some medicines, he was discharging his duties in the Office and at about 3.30 pm, due to his ill-health, he submitted his leave letter to the workshop attendant and left the office for treatment along with his wife. Accordingly, on 19.02.2013 the petitioner submitted his explanation to the memo issued by the 3rd respondent. However, the 3rd respondent vide his proceedings in Se.Mu.Aanai.7165/A2/2012, dated 16.10.2014 passed a final order of censure against the petitioner. It is the case of the petitioner that without conducting proper enquiry and without giving any opportunity to the petitioner, the 3rd respondent has passed the said order imposing Censure on the petitioner. The petitioner has also made a representation to his higher authorities to cancel the Censure awarded against him, but it was not considered.

2-3. It is further stated by the petitioner that the next avenue of promotion to the petitioner is the post of Principal. Now, the petitioner came to know that the respondents 1 & 2 are preparing the temporary panel for promotion to the post of Principal, for the period 2014-2015 & 2015-2016. Though the petitioner is eligible to be promoted to the post of Principal, 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. Hence, the petitioner has made a representation on 11.11.2016 to the 2nd respondent seeking to consider his name for inclusion in the promotion panel. But, the petitioner's representation was not considered. Hence, the petitioner has come forward with the present writ petition.

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 Deputy Director / Principal
Government Industrial Training Institute,
Salem-636 007.

+1 cc to Mr.P.kannankumar, advocate, sr.71026

+1 cc to the Government Pleader, sr.71260.

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