

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4813 of 2014

and

MP.No.1 of 2014

P.Sekar

... Petitioner

Vs

1. The Principal Secretary to Government,
Micro, Small and Medium Enterprises Department,
Fort St.George, Chennai - 9.
2. The Industries Commissioner and
Director of Industries and Commerce Department,
Madavelipakkam,
Chennai - 28.
3. Thiru.K.Saminathan,
Joint Director (Tea),
INDCO SERVE,
Church Hill Road,
Coonoor - 643 101.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 1st respondent to pass appropriate order upon the representation of the petitioner dated 30.01.2014.

For Petitioner : Mr.G.B.Saravanabhavan

For Respondents : Ms.K.Bhuvaneshwari, for R1 & R2

Mr.T.Ayngaraprabhu, for R3

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O R D E R

The relief sought for in this writ petition is for a direction to the first respondent to pass appropriate orders on the representation submitted by writ petitioner dated 30.01.2014.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner is working as a Joint Director and his seniority in the post of Joint Director had not been considered in accordance with Rules. The writ petitioner claims that if any promotion panel is prepared, his name should be included. However, the writ petitioner is unable to substantiate his right for promotion.

3. Contrarily, the learned Government Advocate appearing on behalf of the respondents 1 and 2 states that the writ petitioner had been issued with the charge memo in proceedings dated 22.6.2012 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Thus, the writ petitioner was not eligible for inclusion in the panel for promotion.

4.That apart, the learned counsel appearing for the third respondent also states that the writ petition is filed in order to stall the promotion of the third respondent and further the learned counsel states that it is not a case of promotion and the petitioner only seeks upgradation.

5. On a perusal of the representation submitted by the writ petitioner dated 30.01.2014, it is seen that the writ petitioner is holding the post of Joint Director and seeking upgradation to the post of Joint Director (Tea) to Additional Director(Tea).

6.This Court is of the opinion that upgradation can never be claimed as a matter of right by the employees. Even, the promotion cannot be claimed as a right. Consideration in the panel alone can be claimed as a right of the employee. In the event of consideration, a cause will arise for the employees to move appropriate forum to redress their grievances. In the case on hand, it is not a case of consideration. Further, the writ petitioner was facing the departmental disciplinary proceedings during the relevant point of time, when he made a representation on 30.01.2014. Further, the representation is in relation to the upgradation of the post of Joint Director(Tea) to Additional Director. Upgradation of a particular post or cadre is an administrative prerogative of the State and the employees cannot seek any upgradation as a matter of right.

7.Thus, this Court cannot issue any direction for the respondents to consider the representation submitted by the writ petitioner in relation to the upgradation to the post of Joint Director(Tea) to Additional Director(Tea). In this view of the matter, no further consideration on the grounds raised in this writ petition, needs to be considered.

8. Accordingly, this Writ Petition stands dismissed. Consequently connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ms

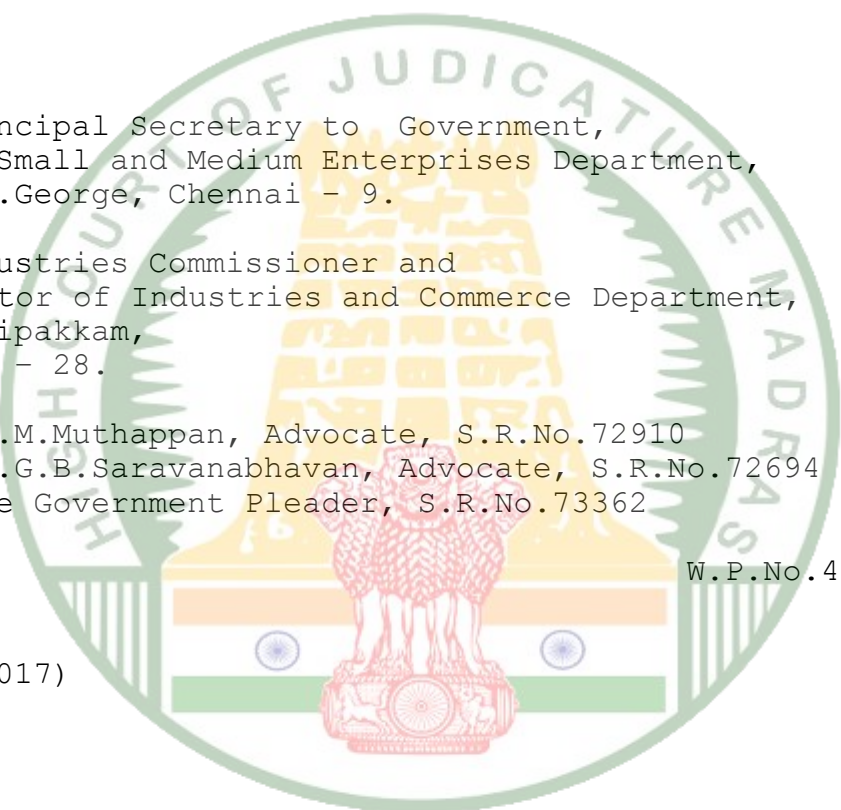
To

1. The Principal Secretary to Government,
Micro, Small and Medium Enterprises Department,
Fort St. George, Chennai - 9.
2. The Industries Commissioner and
Director of Industries and Commerce Department,
Madavelipakkam,
Chennai - 28.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.72910
+1cc to Mr.G.B.Saravanabhavan, Advocate, S.R.No.72694
+1cc to the Government Pleader, S.R.No.73362

W.P.No.4813 of 2014

SS(CO)
CA(14/11/2017)

The seal of the High Court of Madras is a circular emblem. It features a central image of the Lion Capital of Ashoka, which is a four-lion capital standing on a base. The capital is flanked by two smaller lions. The entire emblem is set against a background of a green and white striped field. The words "HIGH COURT OF JUDICATURE MADRAS" are inscribed around the perimeter of the seal. Below the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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