

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Twenty First day of December Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE S.M. SUBRAMANIAM

WMP No.12479 of 2017

IN WP.11498/2017

1 S.ALEXANDER [PETITIONERS]

2 C.BALASUBRAMANIAN

3 P.ASOKAN

4 C.R.JACKSON WILLIAMS

5 P.UTHAYAKUMAR

Vs

1 THE PRINCIPAL SECRETARY TO THE [RESPONDENTS]
GOVERNMENT OF TAMILNADU, TOURISM, CULTURE
AND RELIGIOUS ENDOWMENTS DEPARTMENT,
SECRETRIAT, CHENNAI-9

2 THE MANAGING DIRECTOR
TAMILNADU TOURISM DEVELOPMENT CORPORATION
LTD., TAMILNADU TOURISM COMPLEX, NO.2,
WALLAJAH ROAD (NEAR KALAIVANAR ARANGAM),
CHENNAI 600 002

3 THE GENERAL MANAGER
TAMILNADU TOURISM DEVELOPMENT CORPORATION
LTD., TAMILNADU TOURISM COMPLEX, NO.2,
WALLAJAH ROAD (NEAR KALAIVANAR ARANGAM),
CHENNAI 600 002

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an ad interim injunction restraining the respondents from 1 to 3 for issuance of any notification intended to invite applications for filling up the 5 vacancies in the post of Assistant Manager (Trainee) in furtherance to the cancellation of appointment order issued to the petitioners as Assistant Manager (Trainee) by the 2nd respondent, taking the impending effect on the totality of the situation, (in WMP No.12479 of 2017) pending disposal of the writ petition 11498/2017.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.RAMACHANDRAN, Advocate for the petitioner and of M/S.K.BHUVANESWARI, GOVERNMENT ADVOCATE FOR 1st Respondent and of MR.S.T.S.MOORTHY ADDITIONAL ADVOCATE GENERAL ASSISTED BY MR. R.A.S. SENTHILVEL Advocate on behalf of the 2 & 3 Respondents the court made the following order:-

The learned counsel appearing for the petitioner made a submission that the writ petitioners are fully qualified for the appointment to the post of Assistant Manager (Trainee) by way of Promotion.

2.The promotions were initially granted and the same was cancelled on the ground that the appointments were given contrary to the amendment rules. The said order of cancellation is under challenge in this writ petition.

3.The learned Additional Advocate General made a submission that the Tamil Nadu Tourism Development Corporation Limited amended the service regulations in respect of the recruitment to the post of Assistant Manager (Trainee). As per the amendment they have fixed a ratio of 3 : 1 i.e., three post by way of direct recruitment and one post by way of promotion.

4.The writ petitioners are coming under the category of promotion and the case of the writ petitioners are to be considered in accordance with the amendment rules in force. The learned counsel for the petitioners state that there are about six vacancies are available in the cadre of Assistant Manager (Trainee) and all the posts are to be filled up by the respondents. Filling up the vacancies are the administrative prerogative of the employer. An employee cannot seek a direction to fill up the vacancies. Appointment or promotion can never be claimed as a matter of right, consideration for promotion is a fundamental right.

5.Thus, the legal principles are to be considered in this case as that the case of the petitioners must be considered by preparing the list of eligible candidates for appointment to the post of Assistant Manager (Trainee). The Hon'ble Supreme Court of India ruled that consideration for promotion is a right of an employee, however, promotion can never be claimed as a matter of right. If an employee is considered for promotion and if they found not qualified, then, it is a different matter. However, all the eligible persons found fit for promotion are to be considered, while preparing the list of candidates for granting promotion or appointment.

6.In the case on hand, the grounds raised by the learned Additional Advocate General is that the original appointment was granted to the petitioners in contravention to the amended rules and the same is to be corrected. Correction of an error is

certainly permissible. The learned counsel for the petitioners state that since there are vacancies for the post of Assistant Manager (Trainee), the case of the petitioners, who are also eligible to be considered in accordance with the rules.

7. In this view of the matter, the respondents are directed to consider the case of all the eligible candidates including the petitioners for promotion to the post of Assistant Manager (Trainee), in accordance with the rules in force.

8. Accordingly, the petition stands disposed of.

-sd/-

21/12/2017

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SECRETARY TO THE
GOVERNMENT OF TAMILNADU, TOURISM, CULTURE
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C.C. to M/S.R.RAMACHANDRAN Advocate SR.NO.16494

C.C. to M/S.R.A.S.SENTHILVEL Advocate SR.NO.16540

The Government Advocate, High Court, Madras - 104.

Order

in

WMP.12479/2017

in

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Date :21/12/2017

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