

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.No.6549 of 2010

Karikalan

... Petitioner

vs.

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.
2. Union of India
Represented by Director General
Ordnance Factories Board
10-A, S.K. Bose Road
Kolkata - 700 001.
3. G.M.K. Pillai
4. The General Manager
Ordnance Clothing Factory
Avadi, Chennai - 600 054.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified mandamus, calling for the records of the impugned order passed in O.A.No.520 of 2007 dated 02.09.2009 on the file of the 1st Respondent and quash the same and consequently direct the respondent to promote the Petitioner to the post of Charge Man II with effect from 02.01.2000 with all consequential benefits.

For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.Su.Srinivasan
Assistant Solicitor General for R2 to R4
R1 - Tribunal

O R D E R

K.K.SASIDHARAN, J.

The petitioner filed original application in O.A.No.520 of 2007 before the Madras Bench of the Central Administrative

Tribunal, to direct the Director General of Ordnance Factories Board to promote him to the post of Charge Man - II with effect from 02 January 2000, and pay him all the consequential benefits.

2. The Original Application was filed in 2006, claiming promotion on the ground that being a physically handicapped person, the first Respondent ought to have promoted the petitioner in the year 2000. The Central Administrative Tribunal by way of a detailed order negatived the contentions taken by the petitioner and dismissed the Original Application. Feeling aggrieved, the petitioner is before this court.

3. We have heard the learned counsel for the petitioner and the learned Assistant Solicitor General for respondents 2 to 4.

4. The petitioner was appointed as Lower Division Clerk in the Ordnance Clothing Factory at Avadi on 4 April 1981, against the general vacancy. He was promoted to the post of Upper Division Clerk on 1 October 1996. The post of Upper Division Clerk has two channels of promotion, one to the post of Assistant, which was earlier known as Office Superintendent and the other to the post of Charge Man Grade II. The applicant must have qualifying service of 5 years in the post of Upper Division Clerk for promotion to the post of Assistant and 3 years of qualifying service in the post of Upper Division Clerk for promotion to the post of Charge Man Grade II.

5. The third respondent was holding the post of Upper Division Clerk since 17 October 1986. He was promoted to the post of Charge Man Grade II with effect from 3 January 2000.

6. It is the case of the petitioner that he has been making representations calling upon the first respondent to promote him to the post of Charge Man Grade II taking into account the promotion given to the third respondent. However, the fact remains that the Original Application claiming promotion was filed only in 2006. The petitioner challenged the order dated 20 November 2003, promoting the third respondent to the post of Charge Man Grade II in 2006. The first respondent has taken up a specific contention in the reply statement that the Original Application is liable to be dismissed on the ground of delay and laches. Even then, the Tribunal considered the matter on merits.

7. The order passed by the Tribunal shows that it was only after the issuance of Office Memorandum dated 29 December 2005, the first respondent started implementing the policy of reservation for persons with disabilities. The third respondent was senior to the petitioner and as such, he was given promotion.

8. The first respondent has taken up a contention that the claim of the petitioner was considered for appointment to the post of Assistant vide letter dated 2 August 2002. The petitioner refused to accept the offer and thereafter, challenged the appointment of the third respondent.

9. There is no question of upsetting the promotion given to the third respondent after a period of 3 years. It is not the case of the petitioner that he was not aware of the promotion of the third respondent. The petitioner instead of approaching the Tribunal within the period of limitation adopted a method of sending representations. The Tribunal rejected the claim made by the petitioner with sufficient reasons. We do not find any error or illegality in the said order, warranting interference by exercising the power of judicial review.

10. In the up shot, we dismiss the writ petition. No costs.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

svki

To

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.

2. The Director General
Union of India
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4. The General Manager
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