

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 13.02.2017	Date of pronouncing Judgment 24.02.2017
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CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE V. PARTHIBAN

Writ Petition No.33691 of 2012

V.PALANIVELU

... Petitioner

Versus

1 THE REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH
HIGH COURT BUILDINGS
CHENNAI-104

2 THE UNION OF INDIA
REPRESENTED BY THE DIRECTOR
BCG VACCINE LABORATORY
GUINDY, CHENNAI-32.

3 R.NARAYANAN

4 K.K.JOSEPH

... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the impugned order dated 12.03.2010 and 25.06.2010 passed by the 1st respondent herein in O.A.No.789/2008 and R.A.No.17/2010 and quash in part and thereby, issue a direction to the 2nd respondent herein for grant of promotion to the petitioner for the post of Technician from the date of promotion granted to his junior, the third respondent herein with all consequential benefits.

For Petitioner : M/s. G.Mohanarangan

For Respondent-2 : M/s. S.Meenakumari
Central Govt. Standing Counsel

For Respondents 3 & 4 : No appearance

ORDER

(Order of the Court was delivered by V.PARTHIBAN,J.)

The Writ Petition is filed against the orders passed by the Central Administrative Tribunal, Madras Bench in O.A.No.789 of 2008 dated 12.03.2010 and R.A.No.17/2010 dated 25.06.2010 partly allowing the Original Application filed by the petitioner herein.

2. The petitioner herein approached the learned Tribunal seeking direction to the second respondent herein to grant promotion on par with his juniors, viz., respondents 3 and 4 herein with all consequential benefits.

3. The petitioner was working as Khalasi (Workshop) with effect from 06.06.1992. He has passed S.S.L.C., and in possession of ITI (Fitter). In the cadre of Khalasi, the applicant was shown senior to the respondents 3 and 4 herein. This position was not disputed by the official respondent. However, overlooking the seniority of the petitioner, the third respondent was promoted to the post of Technician in the pay scale of Rs.4000 - 6000 on 22.08.2006 and the fourth respondent was promoted to the post of Mechanic in the scale of Rs.3050 - 4590. According to the petitioner, both these posts are non-selection posts and to be filled up 50% by promotion from the feeder cadre of Khalasi (Workshop), and though the petitioner was fully qualified and was senior to respondents 3 and 4, he was overlooked in the matter of subject promotion. In the above said circumstances, the petitioner herein approached the Tribunal praying for the aforesaid relief.

4. The claim of the petitioner was sought to be resisted by the official respondent that promotion to the post of Technician, as far as third respondent is concerned, he was having more than 14 years of service and possessing Diploma in Engineering, but the petitioner did not possess such Diploma in Engineering. According to the respondents, the qualification prescribed has to be found in the Draft Recruitment Rules dated 17.10.2002. However, in respect of the promotion of the fourth respondent to the post of Mechanic, there was no valid explanation as to how the present petitioner could be overlooked. In the said circumstances, the learned Tribunal allowed the Original Application partially and directed the second respondent herein to grant promotion to the petitioner to the post of Mechanic from the date of promotion granted to his Junior viz., fourth respondent herein with all consequential benefits. However, in respect of the third respondent herein, the learned Tribunal found that the petitioner was not educationally qualified as prescribed in the Draft Recruitment Rules. As against the order passed by the learned Tribunal in Original Application, the petitioner filed Review Application No.17 of 2010 stating that the non-grant of promotion to the petitioner on par with the third respondent herein was not

proper and sought review of the order. However, the learned Tribunal rejected the Review Application on the ground that in the circumstances, it cannot take a different view in the matter. As against the rejection of petitioner's claim for promotion on par with the third respondent, the present Writ Petition has been filed.

5. The learned counsel appearing for the petitioner reiterated his submissions and he further added that in the present Recruitment Rules in force, there is no additional qualification prescribed about the Diploma in Engineering for promotion to the post of Technician and the proposal is yet to be notified in the Recruitment Rules. However, the learned counsel appearing for the second respondent was unable to produce any material to show whether the Draft Recruitment Rules has been finalised, inspite of granting adjournments for clarifying the position. In the absence of any material forthcoming, We are unable to accept the contention of the second respondent that the petitioner was not qualified to be appointed on par with the third respondent herein. We, therefore, modify the order passed by the learned Tribunal and allowed the claim of the petitioner to the extent that he ought to be also considered for promotion to the post of Technician in the scale of pay Rs.4000 - 6000 with effect from 22.08.2006 when the third respondent was promoted, provided the proposed Recruitment Rules have not been finalised as yet and the petitioner is even otherwise qualified within the frame work of the existing Rules governing the promotion to the post of Technician and in any event, the claim of the petitioner has to be considered one way or the other and the same to be done within a period of two months from the date of receipt of a copy of this order and any decision taken shall be communicated to the petitioner forthwith.

6. In view of the above, the Writ Petition is allowed and the impugned order passed by the learned Tribunal in O.A.No.789 of 2008 dated 12.03.2010 is modified to the extent indicated above.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

mra

To

1 THE REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH
HIGH COURT BUILDINGS
CHENNAI-104

2 THE DIRECTOR
THE UNION OF INDIA
BCG VACCINE LABORATORY
GUINDY, CHENNAI-32.

+1cc to M/s.S.Meenakumari,Advocate sr.11932

+1cc to Mr.G.Mohanarangan,Advocate sr.12419

order in
Writ Petition No.33691 of 2012

sv1(co)
ss(7/3/2017)



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