

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.21368 of 2004

V.Thiyagarajan

... Petitioner

Vs.

1. Food Corporation of India
rep. by its Managing Director,
16-20, Barahamba Lane,
New Delhi-110 001.
 2. Union of India represented by its
Secretary GOI,
Ministry of Food and Agriculture,
Krishi Bhavan, New Delhi.
- ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to India for the issuance of a Writ of Mandamus, directing the 1st respondent to operate the panel for the post of Deputy Manager (General) pursuant to the recruitment process made on the basis of advertisement dated 3.11.93 for the post of Deputy Manager (General) in the Food Corporation of India.

For Petitioner : Mr.R.Gowthaman

For Respondents : Mr.S.Vijayakumar for R1
Mr.D.Rameshkumar for R2

O R D E R

The present Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to operate the panel for the post of Deputy Manager (General) pursuant to the recruitment process made on the basis of advertisement dated 3.11.93 for the post of Deputy Manager (General) in the Food Corporation of India.

2. The issue-in-question has already been decided by the Hon'ble Supreme Court in Food Corporation of India and others vs. Bhanu Lodh and others reported in (2005) 3 Supreme Court Cases 618. In this regard, it is useful to extract the following paragraphs hereunder:

''4. During the period 6.11.1993 to 12.11.1993 FCI issued an advertisement for direct recruitment to the posts of Joint Managers/Deputy Managers in the Corporation. During the period 26.8.1994 to 19.7.1995, the process of recruitment for the post of Joint Manager was completed and the select list of candidates was finalised with the approval of the Executive Committee of the Board of Management of FCI. On 21.8.1995, the Government of India, Ministry of Food, issued a directive, purportedly in exercise of its power under Section 6(2) of the Act. The said directive is of some importance and needs to be reproduced.

...

21. In our view, the contention is without merit. In the first place, Section 45 of the Act makes it clear that the power of the Food Corporation of India to frame regulations under the Act is subject to the general restriction that the regulations are not inconsistent with the Act and the rules made thereunder. Section 6(2) is a provision of the Act itself which empowers the Central Government to issue directives and bind the Board of Directors of the Food Corporation to comply with such directives. Hence, it is not possible to read any regulation framed under section 45 as inconsistent with or overriding a directive or instruction validly given by the Central Government to FCI under Section 6(2) of the Act. Apart therefrom, we are not able to appreciate the argument that the power of the Board of Directors to relax the prescribed age-limit can be exercised in such an unreasonable manner as to distort the regulation itself. As we have noticed, the relaxation could not have been done for the benefit of persons who were overaged by about 15 years. For both reasons, the contention fails.''

3. In view of the above, nothing survives for adjudication in the Writ Petition. Accordingly, the Writ Petition is closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Managing Director,
Food Corporation of India,
16-20, Barahamba Lane,
New Delhi-110 001.

2. Secretary GOI,
Union of India,
Ministry of Food and Agriculture,
Krishi Bhavan, New Delhi.

+1 CC to Mr.R.Gowthaman, Advocate Sr.No.66580

+1 CC to Mr.S.Vijayakumar, Advocate Sr.No.66548

+1 CC to Mr.D.Rameshkumar Advocate Sr.No.66739

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SKS (CO)
KP (11.10.2017)



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