

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.964 of 2018

S.Muralikrishnan

... Appellant

-vs-

1.The Additional Chief Secretary to Government,
Home (Transport-II) Department,
Secretariat, Chennai-600 009.

2.Transport Commissioner,
Ezhilagam, Chepauk,
Chennai-600 005.

... Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.6416 of 2018 dated 21.03.2018.

Prayer in WP.NO.6416/2018:

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to take appropriate action on the representation of the petitioner dated 22.01.2018 and dispose the same on merits.

For Appellant :: Mr.K.S.Jeyaganesan

For Respondents:: Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The appellant herein joined as Junior Assistant on compassionate ground on 29.12.1997 in the respondent Transport Department and on being satisfied with his performance, he was promoted as Assistant and subsequently promoted as Superintendent during June 2013. Since then, he is serving in the supervisory cadre for nearly five years. The appellant, after obtaining permission from the Department, completed B.G.L.

Degree through Distance Education from Annamalai University on 27.09.2017. On obtaining B.G.L., he stands qualified for the post of Departmental Representative, which is a post required for the State Transport Appellate Tribunal. Since the said post was not filled up by any appointment, the appellant submitted his representation dated 22.01.2018, but the same has not been considered. Hence the appellant filed a writ petition in W.P.No. 964 of 2018 seeking a direction to dispose of his representation. The said writ petition was dismissed by order dated 08.06.2018 on the ground that no relevant provision has been shown by the appellant to the Court fixing the qualification for the post of Departmental Representative and as to how he is entitled to get promotion. Hence this appeal.

2.The learned counsel for the appellant has submitted that the learned single Judge has failed to appreciate the fact that Rule 2 of the Tamil Nadu State Appellate Tribunal Rules, 1989, has not fixed any qualification for appointment of officials to the second respondent Department for the post of Departmental Representative. Further, he submitted that since no service rules are in force fixing the required qualification for the post of Departmental Representative, the appellant has averred and pleaded only about his educational qualifications and his experience in the affidavit filed in support of the writ petition.

3.We have also heard the learned Special Government Pleader appearing for the respondents on the submissions made by the learned counsel for the appellant and perused the materials available on record.

4.It is the claim of the appellant that he has acquired 20 years of experience and that since no service rules are in force fixing the required qualification for the post of Departmental Representative, the he has averred and pleaded only about his educational qualifications and his experience in the affidavit filed before the writ Court. It is also his stand that Rule 2 of the Tamil Nadu State Appellate Tribunal Rules, 1989, has not fixed any qualification for appointment of officials to the second respondent Department for the post of Departmental Representative. It has to be noted that the representation that is sought to be considered by the authorities is pertaining to a higher post, carrying more pay. It is seen that it is equivalent to the post of Regional Transport Officer. Hence, no such direction could be issued to make him as Departmental Representative as it carries higher scale of pay and higher experience. However, if the Department has got any special rules, it is for the respondents to consider the case of the appellant, if it demands so, for which this Court cannot issue any positive direction.

5.With the above observation, the writ appeal stands dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home (Transport-II) Department,
Secretariat, Chennai-600 009.

2.The Transport Commissioner,
Ezhilagam, Chempauk,
Chennai-600 005.

+1cc to M/s.K.s.Jaya Ganesan, Advocate sr.no.35709
+1cc to Government Pleader, in sr.no.36047

W.A.No.964 of 2018

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