

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.01.2018
CORAM
THE HONOURABLE Mr.JUSTICE V.PARTHIBAN
W.P.No.8560 of 2011

G.Rangarajan

... Petitioner

Vs

The Managing Director,
The Tamil Nadu Text Book Corporation,
DPI Campus, College Road,
Chennai 600 006.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records of the respondent made in Proc.No.3127/A2/2010 dated 23.03.2011 and quash the same and consequently direct the respondent herein to include the petitioner's name in the panel of Assistants and to promote the petitioner as Assistant in Tamil Nadu Text Book Corporation on par with petitioner's junior and grant all service and attendant benefits.

For Petitioner : Mr.L.Chandrakumar for
Mr.S.Thirumavalavan
For Respondent : Mr.K.R.A.Muthukirushnan

O R D E R

Heard Mr.L.Chandrakumar, learned counsel for the petitioner and Mr.K.R.A.Muthukirushnan, learned counsel appearing for the respondent.

2. The petitioner has approached this Court seeking the following relief,

"To issue a writ of Certiorarified Mandamus, to call for the records of the respondent made in Proc.No.3127/A2/2010 dated 23.03.2011 and quash the same and consequently direct the respondent herein to include the petitioner's name in the panel of Assistants and to promote the petitioner as Assistant in Tamil Nadu Text Book Corporation on par with petitioner's junior and grant all service and attendant benefits."

3. The case of the petitioner is as follows:-

The petitioner joined as Junior Assistant in the respondent Corporation on 21.06.1990. The next avenue of promotion to the post of Junior Assistant is the post of Assistant. The petitioner came within the zone of consideration for promotion to the post of Assistant in the year 2005. However, he could not be promoted, since he was issued with the charge memo dated 05.12.2005, that culminated in imposition of penalty of increment cut for two years

without cumulative effect in proceedings dated 18.05.2007. During the pendency of the disciplinary action, according to the petitioner, several of his juniors were promoted to the post of Assistant.

4. The punishment of stoppage of increment for two years was put to challenge in W.P.No.20957 of 2007, before this Court. In the meanwhile, the punishment imposed on the petitioner was over in the year 2009. Subsequently, this Court disposed of the above said writ petition with the following direction:-

"The impugned order of the respondent are set aside and the matter is remitted to the respondent to conduct proper enquiry giving opportunity to cross examine the witnesses and pass final orders within a period of three months from the date of receipt of a copy of this order. The petitioner is not entitled to claim promotion as no final decision is arrived in the proceedings initiated and pendency of the charges under Rule 5(b) is a debarment of granting promotion."

Thereafter, an enquiry was conducted and the same punishment was imposed on the petitioner on 17.12.2012, in addition to recovery of a sum of Rs.1,14,320/-

5. The learned counsel for the petitioner would submit that even though the petitioner's name was in the seniority list as No.1 in 2010, he was not promoted inspite of the fact that the punishment period was over in 2009 itself. However, the said contention of the learned counsel for the petitioner cannot be acceptable for the simple reason that this Court while disposing of the earlier writ petition filed by the petitioner, had clearly held that the petitioner was not entitled to promotion vide its order dated 25.11.2011, till the disposal of the disciplinary action initiated against the petitioner. That being the case, this Court does not find any justification that the petitioner for claiming promotion in the teeth of the specific direction given by this Court in the earlier writ petition.

6. Upon notice, learned counsel appearing for the respondent entered appearance and filed a detailed counter affidavit. The above fact has been spelt out in the counter affidavit in detail and the learned counsel for the respondent Corporation would also submit that the petitioner was further involved in malpractices to the tune of Rs.2.5 crores and complaints were filed against him and FIR was also lodged under the various provisions of the Indian Penal Code.

7. Be that as it may, the petitioner having invited a direction from this Court in W.P.No.20957 of 2007 on 25.11.2011, cannot possibly seek any remedy that he may be considered for promotion after the completion of original punishment imposed in 2007. The disciplinary action was

continued even thereafter by the direction of this Court in earlier writ petition and ultimately, the punishment was once again imposed in 2012. Therefore, the contention put forth on behalf of the petitioner that he was entitled to be promoted in 2010, cannot be countenanced in law, in view of the specific direction passed by this Court dated 25.11.2011.

8. Therefore, this Court is of the considered view that the writ petition lacks merits and therefore, the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsk

To

The Managing Director,
The Tamil Nadu Text Book Corporation,
DPI Campus, College Road,
Chennai 600 006.

+1cc to Mr.K.R.A.Muthukirushnan, Advocate SR.No.922

+1cc to Mr.L.Chandrakumar Advocate SR.No.541

RR(CO)

sm:14.2.2018

W.P.No.8560 of 2011

सत्यमेव जयते

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