WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.09.2018
CORAM :
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.(MD).No.20302 of 2018
and
W.M.P.(MD).No.18071 of 2018

A.Varatharasu ...Petitioner

Vs.

1. The Chairman,
   Marine Department,
   VOC Port Trust,
   Tuticorin-628 004.

2. The Deputy Conservator,
   Marine Department,
   VOC Port Trust,
   Tuticorin-628 004. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the petitioner for promotion to the post of Driver Grade-II taking into consideration of the petitioner's service rendered in the cadre of Greaser for a period of 21 years in confirmity with the judgment of the Hon'ble Supreme Court in the case of State of Tripura and Ors Vs. K.K.Roy reported in the case of 2004 (9) SCC 65 and by considering the petitioner's representation dated 11.09.2018.

For Petitioner : Mr.M.Ajmalkhan, Senior Counsel
for M/s.Ajmal Associate

For R1 & R2 : Mr.A.Arivuchandran

ORDER

This Writ Petition has been filed, seeking a direction to the respondents to consider the name of the petitioner for promotion to the post of Driver-Grade -II taking into consideration the petitioner's service rendered in the cadre of Greaser for a period of 21 years.

2.Mr.A.Arivanandham, learned counsel takes notice for the respondents. By consent of both parties, the main Writ Petition itself is taken up for final disposal at the stage of admission.

https://hcservices.ecourts.gov.in/hcservices/

3.The case of the petitioner is as follows:-
The petitioner was initially appointed as Khalasi / Dry Dock on

WEB COPY

04.02.1997 and subsequently, he was appointed as Greaser on 08.02.2002 in Marine Department, VOC Port Trust, Tuticorin District. The petitioner has been continuing in the said post till now.

4.When the matter was taken up for hearing, the learned counsel appearing for the petitioner would submit that the petitioner is eligible for promotion to the post of Driver Grade-II. He would further submit that the petitioner served as Greaser for more than three years in the regular service in the grade in the Port Trust and also he had obtained a Certificate of Competency. He further submitted that the issue is already covered by the decision of the Hon'ble Apex Court in ***2004 (9) SCC 65-(State of Tripura and Ors Vs. K.K.Roy).*** Though the petitioner is qualified in all other aspects for promotion to the post of Greaser, his name has not been considered for the same. In this regard, the petitioner has given a representation on 11.09.2018 to the first respondent to give promotion to the post of Greaser. Since the said representation did not evoke any response, the petitioner is before this Court.

5.Learned counsel appearing for the respondents would submit that the applicability of the decision referred to by the petitioner has to be gone into by the authority. He further submitted that the promotion is not a matter of right and the representation of the petitioner would be considered in accordance with law.

6.Considering the facts and circumstances of the case, this Writ Petition is disposed of, with a direction to the respondents to consider the representation of the petitioner, dated 11.09.2018 and pass appropriate orders thereon in the light of the order passed by the Hon'ble Apex Court in ***2004 (9) SCC 65-(State of Tripura and Ors Vs. K.K.Roy)***, if applicable, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(ADI)

/True Copy/

Sub Assistant Registrar(CS-IV)

+1cc to Mr.A.Arivuchandran,Advocate Sr.No.86665

TSG
VB/PM/SAR4/28.11.2018/2P/2C

https://hcservices.ecourts.gov.in/hcservices/