

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2019

CORUM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
and  
THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A.No.1399 of 2019

M.Subramanian ... Appellant / Petitioner

Vs.

1. The Administrator,  
Nadipissai Pulavar K.K.Ramasamy  
Co-operative Sugar Mills Ltd.,  
Thalainayar, Mayiladudurai Taluk,  
Nagapattinam District - 609 201.
2. The Commissioner of Sugar/Director of Sugar,  
No.690, Anna Salai, Periyar Building,  
Chennai - 600 035. ... Respondents / Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order passed by the learned single Judge of this Court dated 30.01.2019 in W.P.No.10840 of 2005.

Prayer in W.P.No.10840 of 2005: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the second respondent in Rc.No.425/A&I-1/2005, dated 11.3.2005 and quash the same and consequently, direct the respondents to appoint the petitioner herein to the post of Office Manager in the first respondent Sugar Mill as per the guidelines issued in circular Rc.No.G1/25600/99, dated 26.8.1999 of the second respondent.

For Appellant :Ms.D.Geetha

For Respondent:Ms.A.Shahana Fathima  
for M/s. R.Gopinath for R1

Mr.R.Bala Ramesh  
Addl.Govt.Pleader (Co.op.) for R2.

J U D G M E N T

(Judgment of the Court was made by K.K.SASIDHARAN, J.,)

The writ petition filed by the appellant, challenging the proceedings dated 11.03.2005 on the file of the Commissioner/Director of Sugar, Chennai, calling upon the Special Officer/Administrator, Public Sector Sugar Mills, to forward the names of the Labour Welfare Officers who have put in 16 years of service to attend the interview to be held on 28.03.2005 for appointment to the post of Office Manager in charge in various Mills, was dismissed by the learned single Judge, with an observation that there is no vested right to the appellant to claim appointment to the post of Office Manager. The said order is under challenge at the instance of the unsuccessful writ petitioner.

2. The learned counsel for the appellant, by placing reliance on the string of correspondence exchanged between the first and second respondents, contended that the appellant has been functioning as Office Manager. According to the learned counsel, the post of Superintendent is a feeder category for appointment to the post of Office Manager and as such, the appellant was perfectly justified in contending that he ought to have been promoted as Office Manager. The learned counsel further contended that the Administrator of the Mill had sent series of communications to the second respondent to fill up the post of Office Manager. However, for the reasons best known, the post was not filled up. According to the learned counsel, the appellant retired from service on attaining the age of superannuation. However, he was not paid the salary applicable to the post of Office Manager.

3. We have also heard the learned counsel appearing for the respondents

4. The appellant was an employee of Nadipissai Pulavar K.K.Ramasamy Co-operative Sugar Mills Ltd., Thalainayar, Maliladudurai Taluk, Nagapattinam District. During the material time, he was working as Office Superintendent. The next avenue of promotion is to the post of Office Manager. Since one post of Office Manager has already been filled up, there was no action taken to fill up the other available post.

5. The appellant was given full additional charge in the post of Office Manager by proceedings dated 13.02.2007. Subsequently, by proceedings dated 21.02.2007, he was given full additional charge of the post of Office Manager. It was not restricted to any particular period. In short, it was an order giving full additional charge to the appellant for the post of Manager, until further orders.

6. The Management appears to have taken up the issue for filling up the post of Office Manager with the second respondent. The second respondent has not given permission. The post was therefore, kept vacant. It was only when a decision was taken by the first respondent to appoint the Labour Welfare Officers having 16 years of total service as Officer Manager, the appellant has come up with a writ petition before this Court.

7. There is no right accrued to the appellant to claim that he should be appointed substantively in the post of Office Manager. The fact that he was given full additional charge in the post of Office Manager would not give him any right to claim appointment on regular basis. It was for the Management to decide as to whether a particular post should be filled up. The Management has to take into account several factors, before taking a decision, for filling up the post. It is not for the Court to direct the Management to fill up the post, without taking into account, the financial condition of the Mill. We are therefore of the view that the learned single Judge was justified in rejecting the request for giving promotion to the appellant.

8. The next question is, as to whether the Management was correct in not denying the salary to the appellant, notwithstanding the fact he was given full additional charge of the post of Office Manager.

9. The appellant has already given two representations, the last one being dated 12.10.2009. The Mill appears to have given a reply to the said representation to the effect that on account of the pendency of the writ petition, it would not be possible to consider the claim for salary in the post of Office Manager.

10. We direct the first respondent to consider the representation dated 12.10.2009 on merits and taking into account the relevant regulations. The Management, should also consider the fact that the appellant was given full additional charge in the post of Office Manager and he has been functioning as such till his retirement. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment.

11. The intra court appeal is disposed of with the above direction. No costs.

Sd/-  
Assistant Registrar (CS-VI)

//True Copy//

vsi

Sub Assistant Registrar

To

1. The Administrator,  
Nadipissai Pulavar K.K.Ramasamy  
Co-operative Sugar Mills Ltd.,  
Thalainayar, Mayiladudurai Taluk,  
Nagapattinam District - 609 201.
2. The Commissioner of Sugar/Director of Sugar,  
No.690, Anna Salai, Periyar Building,  
Chennai - 600 035.

+1 cc to M/s.D.Geetha, Advocate, S.R.No.60627

+1 cc to Mr.R.Gopinath, Advocate, S.R.No.61022

CA(CO)  
SSM(29/08/2019)

W.A.No.1399 of 2019

सत्यमेव जयते

WEB COPY