

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.01.2019

CORAM:
THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.31055 of 2016
and
WMP.No. 26924 of 2016

M. Chandra Leela

... Petitioner

Versus

1.Principal Secretary to Government,
Department of Industries,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.

2.The Commissioner/Director of Geology and Mining,
Commissionerate of Geology and Mining,
Guindy, Chennai - 600 032.

... Respondents

Prayer: Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in N.K.No.9878/P.M.2/2015 dated 21.03.2016 on the file of the 2nd respondent and quash the same and consequently direct the respondents to restore the re-deployed post of Superintendent, pursuant to his proceedings in Na.Ka.No.6571/PM2/2013 Dated 04.02.2014, into the original sanction to the Head quarters at the office of the 2nd respondent as per G.O.Ms.328. Industries(E1) Department, Dt.16.12.1994 on the file of the 1st respondent, within a reasonable time.

For Petitioner : Mr.R.Neelakandan
for Mr.C.Mahendran

For Respondents : Mrs.P.Rajalakshmi,
Additional Government Pleader.

WEB COPY
O R D E R

Mrs.Chandra Leela, working of Assistant (Selection Grade), in the Commissionerate of Geology and Mining Department, is the petitioner herein and she has filed the Writ Petition seeking to quash the impugned order in N.K.No.9878/B.M.2/2015, dated 21.03.2016 on the file the second respondent and consequently, to direct the respondents to restore the re-deployed post of Superintendent, pursuant to his proceedings in N.K.No.6571/PM2/2013 Dated 04.02.2014, into the original sanction to the Head quarters at the office of the second respondent, as per

G.O.Ms.328, Industries (E1) Department, Dt.16.12.1994 on the file of the first respondent.

2. Learned counsel for the petitioner has stated that initially, the petitioner joined as Junior Assistant on 19.10.1994 in the above said department and thereafter, she was promoted to the post of Assistant on 30.03.2000 and on the same day, she was posted in Store Section of the same department. She was also given an additional charge of MM3 Section. From 2015 onwards, she was working in Mining Section as Assistant (Selection Grade) and handling MM5 & MM11 sub-sections. The total number of Assistants in the office of the second respondent are 43 i.e., 24 Junior Assistants and 19 Assistants. The total number of Junior Assistants and Assistants at the Head Office are 20 i.e., 9 Junior Assistants and 11 Assistants. While so, as per the above said Government Order, 4 Assistant posts were upgraded as Superintendent for every 5 Assistants including Junior Assistants. In the meanwhile, when a panel was drawn in the cadre of Assistant (Selection Grade) in the year 2013, the petitioner was placed at SI.No.3 in the Statewide seniority list and as far as the Head quarters is concerned, she was placed at second rank. While so, the second respondent, vide proceedings dated 04.02.2014, has redeployed the post of Superintendent to the office of the Assistant Director of Geology and Mining, Tiruvannamalai, citing administrative reasons. Therefore, in view of such redeployment, the post of Superintendent fell vacant in the office of the second respondent, hence, the petitioner made a representation dated 19.08.2015 before the second respondent. However, since the said representation was put to cold-storage, the petitioner preferred a Writ Petition No.36431 of 2015 seeking to consider her representation dated 19.08.2015 and pass an appropriate order on merits, whereby, this Court, vide its order dated 16.11.2015 directed the respondents therein to pass orders on merit, on the pending representation of the petitioner. Pursuant to the same, the second respondent has passed the present impugned order in question.

3. Further, the learned counsel for the petitioner would argue that the impugned order is totally untenable, for the simple reason that redeployment of the post of Superintendent was done at the instance of an individual citing health reason and not on administrative reason. That apart, the delegation of power misconstrued only to sustain the redeployment in one way or other. When the post of Superintendent in the office of the second respondent should not be re-deployed to the office of Assistant Director of Geology and Mining, Tiruvannamalai, on the administrative reasons, one Rajendran was accommodated in the petitioner's post, hence, the petitioner lost the chance of becoming a Superintendent in the promotional post. Before concluding, the learned counsel for the petitioner submitted

that since the petitioner retired from service on 30th April 2017, the respondents would not be put to prejudice, if she is also allowed to enjoy the notional promotional benefits of the said post.

4. A detailed counter affidavit has been filed by the 2nd respondent. Learned Additional Government Pleader appearing for the respondents submitted that the writ petition is liable to be dismissed for the following reasons:

(a) Firstly, when the petitioner was eligible for the post of Superintendent (incharge of the Stores), the respondents offered her enough opportunity to occupy the said post, however, she had refused to accept the same and on the other hand, she was pressing for the said post under General Administration. It is also further stated that when she was promoted from the Junior Assistant post, she immediately accepted the post of Security, which is equivalent of the cadre of Assistant, but, she had peculiarly rejected the post Superintendent with Security.

(b) Secondly, it is stated, the petitioner cannot compare with one Mr. Rajendran and as per the State seniority, the petitioner was placed at Sl.No.3, whereas one Mr. Rajendran and Mr. R. Sundaravadivelu were placed at Sl.Nos.1 and 2 respectively. While so, the said Mr. Rajendran, Superintendent, made a request to promote him and post him in Thiruvannamalai District, since his right leg got affected in an accident. It is further stated that by G.O.(Ms).No.150, Industries (E1) Department, dated 05.02.1999 and instructions issued in Government Letter (Ms) No.279, Industries (E1) Department, dated 18.12.2015, the Government delegated the powers to the second respondent for redeployment of posts as the second respondent is the appointing authority.

5. In the light of the above said Government Order giving authority to the second respondent, the petitioner was also offered for promotion to the post of Superintendent (Security) post in Head quarters, Guindy, vide proceedings in Na.Ka.6569/PM1/2014, dated 27.03.2015. But, the petitioner, vide her letter dated 07.04.2015, refused to accept the said promotion, therefore, now, she cannot seek the post of Superintendent from the General Cadre, especially, when it is not available today.

6. I fully agree with the above said submissions of the learned Additional Government Pleader appearing for the respondents. As stated by the respondents, it is not in dispute that the petitioner was offered for the promotional post of Superintendent (Security). However, only the petitioner, vide her letter dated 07.04.2015, had refused to accept the said promotion, therefore, now, in my considered view, she has no locus-standi to seek a prayer to accommodate her in the post of Superintendent (General category). Hence, the contention of the

petitioner that there was a vacancy on 30.04.2017, the date in which petitioner retired, cannot be accepted by this Court in view of the said letter dated 07.04.2015 flatly refusing to accept the said promotion. Accordingly, on this count, I do not find any merit in the writ petition and the same is dismissed. No Costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

klt/rkm

To:

- 1.Principal Secretary to Government,
Department of Industries,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.
- 2.The commissioner/
Director of Geology and Mining,
Commissionerate of Geology and Mining,
Guindy, Chennai - 600 032.

+lcc to Mr.C.Mahendran, Advocate, S.R.No.7840

+lcc to the Government Pleader, S.R.No.8150

W.P.No.31055 of 2016
and
WMP.No. 26924 of 2016

KS(CO)

rrs 07/03/2019

सत्यमेव जयते
WEB COPY