

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.07.2019

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.22737 of 2018

S.R.Perumal

... Petitioner

Vs.

1. The Secretary to Government,
Animal Husbandry & Fisheries & Dairying Dept.
Fort St. George, Chennai - 600 009.
2. The Director of Milk Production and
Dairy Development,
Madhavaram Milk Colony,
Chennai - 600 051.
3. The Deputy Registrar (Dairying)
Thiruvallur.
4. The General Manager,
Kancheepuram Thiruvallur District Milk
Producers Union, SIDCO Industrial Estate,
Kakalur - 602 003.
Thiruvallur District.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to pass orders on the petitioner's representations dated 30.04.2018 and 29.05.2018 and consequently promoting the petitioner as Manager with all other attendant benefits applicable from 24.05.2018 on which date his juniors were promoted.

For Petitioner : Mr.R.Sethu Pandian

For 1st Respondent : Mr.K.K.Ramesh
Additional Government Pleader

For RR 2 to 4 : Mr.L.P.Shanmughasundaram
Special Government Pleader

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ORDER

According to the petitioner, he was appointed as Junior Engineer on 17.07.1987 and was eventually promoted as Special Grade Deputy Manager (Engg) with effect from 24.07.2007. The grievance of the petitioner is that no further promotion has been granted since 2007. Therefore, he is before this Court seeking promotion to the post of Manager.

2.After notice, Mr.K.K.Ramesh, learned Additional Government Pleader for the 1st respondent and Mr.L.P.Shanmughasundaram, learned Special Government Pleader for respondents 2 to 4 have entered appearance and filed a counter affidavit.

3.The learned Special Government Pleader for respondents 2 to 4 would draw the attention of this Court to the seniority list maintained by the respondents in respect of Deputy Managers in which the name of the petitioner was shown as No.2 after one V.Mathi. According to the learned counsel for the respondents, that there is only one post of Manager and hence, the petitioner could not be accommodated. Moreover, the learned counsel would also submit that above the petitioner, one V.Mathi name is there in the seniority list and only after promotion of the said person, the petitioner can expect to be accommodated into the post of Manager, by way of promotion.

4.At this, the learned counsel for the petitioner would submit that the petitioner is not having any other avenue of promotion and therefore, he ought to have been considered for promotion to the post of Manager.

5.This Court is unable to appreciate the argument advanced on behalf of the petitioner. When there is only one post of Manager available and only when there is a vacancy in the post of Manager, the petitioner can expect to be accommodated in the said post, if he is otherwise qualified to be appointed/promoted to the post of Manager. Even otherwise, according to the seniority list, his name is found at No.2 and above, there is one other name Thiru.V.Mathi. Unless that person is promoted to the post of Manager, the present petitioner cannot have any claim. Therefore, the petitioner cannot expect this Court to pass a direction to grant him promotion to the post of Manager when there is no vacancy at all in the post of Manager.

6.However, the Government has already evolved a scheme to grant selection grade and special grade in the cadre of Deputy Manager and the same was granted to the petitioner in 1997 and 2007 respectively. When selection and special grades have been given to the petitioner in order to compensate the petitioner for his non-promotion due to non availability of vacancy, the

petitioner cannot have any specific case to complain for not being granted promotion to the next higher post. Therefore, when there is no vacancy in the higher post at all, the petitioner cannot ask for a prayer to consider him for promotion to the next higher post.

7. In that view of the matter, this Court finds that the claim of the petitioner does not have merit and therefore, the writ petition is liable to be dismissed and hence, the same is dismissed. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Secretary to Government,
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 4. The General Manager,
Kancheepuram Thiruvallur District Milk
Producers Union, SIDCO Industrial Estate,
Kakalur - 602 003.
Thiruvallur District.
 5. The Government Advocate,
High Court, Madras.
- +1 cc to Mr.R.Sethupandian, Advocate, S.R.No.61052
+1 cc to M/s.L.P.Shanmugasundaram, Advocate, S.R.No.61609
+1 cc to the Government Pleader, S.R.No.61894.
+1 cc to the Spl. Government Pleader(CO-OP), S.R.No.61865

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GP(CO)
SSM(21/08/2019)