

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14128 OF 2019
and WMP.No.33700 of 2019

S.Anand

... Petitioner

Versus

1. The Secretary to Government
Tourism Culture & Religious Endowments
(T2) Department
Fort St.George,
Chennai 600 009.

2. The Commissioner of Tourism,
Tamil Nadu Tourism Complex,
Walajah Road,
Chennai 600 002.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in Proc No:8131/HRD-1/2014-3 dated 12.04.2019 which reverts the promotion of the petitioner from superintendent to feeder Assistant and quash the same and consequently direct the first respondent to promote the petitioner back to his superintendent.

For Petitioner : Mr.Mohan
for M/s.J.Arokhiaraj

For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in Proc No:8131/HRD-1/2014-3 dated 12.04.2019 reverting the promotion given to the petitioner from Superintendent to Feeder Assistant, quash the same and consequently direct the first respondent to promote the petitioner back as Superintendent.

2. It is the case of the petitioner that he joined the second respondent's office on 08.06.2000 as Junior Assistant and subsequently after 10 years of service, promoted as Assistant on 19.08.2010 and after consolidated experience of 16 years of service, out of which 6 years as Assistant, has been promoted as Superintendent on 08.10.2016 vide Proc.No.6551/HRD2/2016-2. On 12.04.2019 the first respondent reverted the petitioner from Superintendent to Feeder Assistant and the reason caused by the first respondent for reverting the petitioner's promotion is that those who were promoted as Tourist Officers are now reverted to the post of Superintendent and since only 6 Superintendent posts were sanctioned, the first respondent has deprived the petitioner's promotion and reverted the petitioner as Assistant and the same is unwarranted and in contravention of the principles of natural justice. The first respondent, belatedly claiming that those Superintendents who were promoted as Tourist Officers in 2016 have been reverted back to the post of Superintendent due to Status Quo order passed in W.P.(MD). No.19524 of 2014 that has been filed before the High Court of Madras Madurai Bench, Madurai and hence no promotion can be carried out and more over, the said writ petition is filed by an Assistant Tourist Grade-II employee named Anbarasu and the said Anbarasu was not even in the zone of consideration for promotion and not even aggrieved by the G.O.Ms.No.78 on which he based his claim and that he has no locus standi to file the writ petition as he has not completed the written account test. Hence the reversion of the petitioner's promotion to the post of Assistant, is illegal and unwarranted. It is also claimed that against the order of dismissal of W.P.(MD)Nos.11514, 11515 and 11516 of 2016 the writ petitioners/appellants filed W.A.(MD). Nos.1008 to 1010 of 2019 and the same were allowed by the Hon'ble Division Bench of Madurai High Court, Madurai and set aside the learned Single Judge order. Since the above writ appeals were allowed, the petitioner seeks the benefit of promotion to his original post.

3. It is admitted by both sides that the issue raised in the writ petition is squarely covered by the order passed by the Hon'ble Division Bench in W.A.(MD).Nos.1008 to 1010 of 2019 dated 13.11.2019 (A.Raman and another Vs N.Anbarasu and others) wherein the Division Bench held as follows:-

"(iv) The Writ Petitions in W.P.(MD).Nos.11514, 11515 and 11516 of 2016 have been filed, challenging the orders of reversion. The learned Single Bench has not recorded any independent reasons as to why those writ petitions are liable to be dismissed and the only reason being the promotion orders have been

quashed by allowing W.P.(MD).Nos.5843 of 2018. We have set aside the order passed in W.P.(MD).No.5843 of 2018. Accordingly, the order passed in the W.P.(MD).Nos. 11514 to 11516 of 2016 is set aside and the writ petitions are allowed and the orders of reversion are quashed. The official respondents are directed to re-post the appellants, as Tourist Officers and in the event any representation is received as observed earlier it is open to the official respondents to consider the same in accordance with law. No costs. Consequently the connected miscellaneous petitions are closed".

4. In view of the order passed in W.A.(MD).No.1008 to 1010 of 2019 the present writ petition is allowed and the impugned order dated 12.04.2019 passed by the first respondent is quashed and the respondents are directed to re-post the petitioner as Superintendent within a period of four weeks from the date of receipt of a copy of this order. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Tourism Culture & Religious Endowments,
(T2) Department,
Fort St.George,
Chennai 600 009.
2. The Commissioner of Tourism,
Tamil Nadu Tourism Complex,
Walajah Road,
Chennai 600 002.

+1cc to Mr.J.Arokhia Raj, Advocate Sr.100225
+1cc to the Government Pleader Sr.100392

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srg 29/01/2020