

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-03-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29720 of 2018

N.Rajesh

.. Petitioner

- Vs. -

1. The Chairman and Managing Director,
Food Corporation of India,
No.16-20, Barakhamba Lane,
New Delhi - 110 001.

2. Executive Director (Personnel),
Food Corporation of India,
No.16-20, Barakhamba Lane,
New Delhi-110 001.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 5.12.2016 and dispose the same in accordance with law.

For Petitioner : Mr.S.Senthil Nathan for
Mr.K.Manikandan.

For Respondents : Mr.R.M.Muthukumar

O R D E R

The relief sought for in the present writ petition is for a direction to direct the first respondent to consider the representation submitted by the writ petitioner on 5.12.2016 and dispose of the same in accordance with law.

2. The learned counsel for the writ petitioner states that the writ petitioner was recruited as Manager (Depot) in the respondent-Corporation and joined the service at Karnataka Region on 3.7.2006. Thereafter, the writ petitioner was transferred to various places and during December 2015, he was

promoted as AGM (General) and was posted at Palakkad, RO Trivandrum. Subsequently during the year 2017, the writ petitioner was transferred to Coimbatore and presently working as Area Manager.

3. The grievance of the writ petitioner is that as per the advertisement published by the respondent-Corporation, calling for the post of Assistant General Manager (Technical), the writ petitioner got selected and kept in the Reserve List. However, the case of the writ petitioner was not considered despite the fact that there is an order passed by the High Court of Delhi in LPA Nos.90 to 94 of 2014 on 29.9.2016.

4. The fact remains that the recruitment was advertised on 8.11.2018, pursuant to the judgment of the High Court of Delhi in LPA Nos.90 to 94 of 2014 dated 29.9.2016.

5. The learned counsel for the writ petitioner states that the name of the writ petitioner was included in the Reserve List for appointment. However, all these issues are to be adjudicated on merits if the facts and circumstances as well as the issues are raised in the present writ petition.

6. Contrarily, the present writ petition is filed to direct the first respondent to consider the representation submitted by the writ petitioner on 5.12.2016, without adjudicating the issues involved in the recruitment as well as the inclusion of the name of the writ petitioner in the Reserve List. No such relief can be provided by granting such relief to the writ petitioner by directing the first respondent to consider the representation submitted by the writ petitioner.

7. The writ petitioner cannot create a cause of action for the purpose of further adjudication. If at all a person is aggrieved from and out of the selection or otherwise, he has to challenge the very selection or the action of the authorities competent in respect of publication of select list.

8. Contrarily, the writ petition, seeking direction to consider the representation submitted by the writ petitioner, cannot be entertained. In this regard, the Hon'ble Supreme Court of India in the case of the case of Government of India and Another vs. P.Venkatesh [decided on 1.3.2019 in Civil Appeal No.2425 of 2019] held as follows:-

"This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no

service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute."

9. Under these circumstances, the writ petitioner is at liberty to adjudicate the issue on merits and in accordance with law if the selection was improper or otherwise. However, the relief, as such, sought for to direct the first respondent to consider the representation submitted by the writ petitioner, cannot be granted for the purpose of continuing the litigation, which would not serve the cause of justice.

10. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Chairman and Managing Director,
Food Corporation of India,
No.16-20, Barakhamba Lane,
New Delhi - 110 001.
2. Executive Director (Personnel),
Food Corporation of India,
No.16-20, Barakhamba Lane,
New Delhi-110 001.

+2cc to Mr.K.Manikandan, Advocate, S.R.No.26386
+1cc to Mr.R.M.Muthukumar, Advocate, S.R.No.26451
+1cc to Mr.S.Vijayakumar, Advocate, S.R.No.26666

WP.No.29720 of 2018

AK(CO)
CS/26/04/2019