

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.13322 of 2019

ORDER:

This writ petition is being disposed of at the admission stage with the consent of all the parties.

2. The writ petition is filed with the following prayer:

“...the Hon’ble Court may be pleased to issue any writ order or direction more particularly one in the nature Writ of Mandamus declaring the action of the respondents particularly the 2nd respondent in issuing the Impugned Proceedings in Rc.No.79801/Spl/ OMC/2018/1057, dated 16.11.2018 without giving effect to the Judgment in WP.No.32411 of 2017 dated 12.10.2018 is illegal arbitrary contrary to law and against the Principles of Natural Justice and in violation of Article 14, 16 and 21 of the Constitution of India and Consequently set aside the same and direct the respondents to give effect to the Promotion Order in Proceedings No.3861/E2/OMC/2017/11004, dated 06.07.2017 and consider the petitioner for promotion to the post of Librarian and pass such other order and further order or orders as the Hon’ble Court may deem fit and proper in the circumstances of the case.”

3. Heard Mr. G. Jaya Prakash Babu, learned counsel for the petitioner and learned Government Pleader for Services II.

4. Petitioner contends that while she was working as Junior Assistant, she was promoted to the post of Assistant Librarian vide proceedings dated 06.07.2017. One Ms. K. Nagalakshmi filed WP.No.24035 of 2017 and one Mr. M. Paramesh filed WP.No.34568 of 2017 challenging the promotion of the petitioner. Initially, this Court suspended the promotion orders of the petitioner, as such, the respondents issued consequential proceedings dated 06.09.2017 reverting the petitioner as Junior Assistant. Challenging the reversion orders, the petitioner filed WP.No.32411 of 2017 and this Court vide order dated 12.10.2018 allowed the writ petition filed by the petitioner

and dismissed the other two writ petitions. In pursuance of the said order, the respondents ought to have considered the case of the petitioner as Assistant Librarian from the date of her initial promotion i.e. 06.07.2017. However, it is contended that the respondents have issued proceedings dated 16.11.2018 reappointing the petitioner by transfer to the post of Assistant Librarian from the cadre of Junior Assistant instead of considering the petitioner as Assistant Librarian with effect from 06.07.2017.

5. The counsel for the petitioner submits that since the respondents have issued proceedings dated 16.11.2018 reappointing the petitioner by transfer to the post of Assistant Librarian, the respondents have not considered the case of the petitioner for further promotion to the post of Librarian. He further submits that the respondents have considered the promotion of the petitioner to the post of Assistant Librarian only with effect from 16.11.2018 but not from 06.07.2017. He further submits that the promotion order given to the petitioner vide proceedings dated 06.07.2017 has to be restored, as the writ petition filed by the petitioner was allowed by this Court by setting aside the reversion orders dated 06.09.2017. Therefore, the counsel for the petitioner submits that appropriate orders be passed in the writ petition directing the respondents to treat that the petitioner was promoted as Assistant Librarian vide proceedings dated 06.07.2017 and on that basis consider her case for further promotion to the post of Librarian in accordance with rules.

6. Learned Government Pleader submits that since the writ petition filed by the petitioner was allowed by setting aside the reversion order dated 06.09.2017, the case of the petitioner has to be considered from the date of her initial promotion to the post of Assistant Librarian dated 06.07.2017. Learned Government Pleader further submits that if

only the petitioner submits a representation, the respondents would consider and pass appropriate orders in accordance with law.

7. This Court, having considered the rival submissions made by both parties, is of the considered view that the writ petition can be disposed of by permitting the petitioner to file a representation before the respondents requesting them to restore the date of promotion of the petitioner to 06.07.2017 in terms of the decision of this Court in WP.No.32411 of 2017 dated 12.10.2018 and upon such representation, being received, the respondents shall consider the same and pass appropriate orders duly restoring the promotion of the petitioner to that of 06.07.2017 and on that basis, consider the case of the petitioner for promotion to the post of Librarian in accordance with the rules.

With the above observations, the writ petition is disposed of. Pending miscellaneous petitions shall also stand dismissed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

July 2, 2019
DSK