

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.27483 of 2004 and 6847 of 2007

R.V.Rajendran .. Petitioner in both the writ petitions

-vs-

The Government of Tamil Nadu
rep. by its Secretary to Government
Home (Prisons II) Department
Secretariat,
Chennai 600 009 ... 1st Respondent in WP 27483/2004

The Additional Director
General of Prisons ... 2nd Respondent in WP
CMDA Tower-2, Egmore 27483/2004 & sole respondent
Chennai 600 008 ... in WP 6847/2007

W.P.No.27483 of 2004 is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the second respondent in No.49881/E.S.3/03 dated 26.7.2004 and quash the same as illegal and consequently direct the second respondent, in consultation with the first respondent to include the name of the petitioner in the appropriate place in the panel of Grade I Warders fit for promotion as Chief Head Warder for the year 2001-2002 in the Prison Department and appoint the petitioner as Chief Head Warder retrospectively without reference to the original applications in O.A.No.5522 of 2002 and O.A.No.3370 of 2003 pending before the Tamil Nadu Administrative Tribunal.

W.P.No.6847 of 2007 is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the respondent in No.23015/ES3/02 dated 18.7.2002 and No.37381/ES1/02 dated 13.9.2002 and quash the same as illegal and consequently direct the respondent to include the name of the petitioner in the appropriate place in the panel of Grade I Warders fit for promotion as Chief Head Warder for the year 2001-2002 communicated in Proceedings No.23015/ES3/2002 dated

27.6.2002 and direct the respondent to appoint the petitioner as Chief Head Warder retrospectively in so far as the petitioner herein is concerned.

For Petitioner :: Mr.K.Shahul Hameed

For Respondents :: Mr.K.Magesh
Special Government Pleader

ORDER

Mr.R.V.Rajendran has originally filed O.A.No.5522 of 2002 challenging the impugned order dated 18.7.2002 bearing No.23015/ES3/02 and dated 13.9.2002 bearing No.37381/ES1/02 issued by the Additional Director General of Prisons, Chennai, quash the same as illegal with a consequential direction to the respondent to include his name in the appropriate place in the panel of Grade I Warders fit for promotion as Chief Head Warder for the year 2001-2002, as communicated in Proceedings No.23015/ES3/2002 dated 27.6.2002, with a further direction to appoint him as Chief Head Warder. On the abolition of the Tamil Nadu Administrative Tribunal, the matter was transferred to this Court and re-numbered as W.P.No.6847 of 2007. During the pendency of the said petition, the petitioner has again filed W.P.No.27483 of 2004 challenging the impugned order dated 26.7.2004, wherein he has been informed that his request for promotion would be considered after the disposal of the pending matter.

2. Learned counsel for the petitioner submitted that the petitioner was selected as Grade II Warder by the Superintendent, Central Prison, Cuddalore in his proceedings No.333/Po.1/78 dated 22.5.78 and after completion of the probation period, his services were regularised by the proceedings No.3634/Po.1/80 dated 8.7.80. Later on, by proceedings dated 10.5.89, the Superintendent of Central Prison, Vellore called the petitioner for measurement of his height to verify whether he was fit to continue in the said job. The petitioner's height was measured on 16.5.89 in the presence of the Superintendent and thereafter, he was allowed to continue in the same job. The learned counsel for the petitioner also submitted that by proceedings dated 5.10.2000 bearing No.47281/E2/7/2000, the Additional Director General of Prisons has approved the panel of Grade II Warders fit for promotion to the post of Grade I Warder for the year 2001-02. In the above said proceedings, the name of the petitioner was included, as per the General Rules 36(b)(i) of the Tamil Nadu Jail Subordinate Service and thereafter, the Superintendent of

Central Prison, Cuddalore, by proceedings dated 3.8.2001, promoted and appointed the petitioner as Grade I Warder in the Cuddalore Central Prison from 2.8.2001 onwards. While he was serving there, another panel in the post of Grade I Warder fit for promotion as Chief Head Warder was prepared by the Additional Director General of Prisons and a Special Promotion Board was constituted for the selection of candidates fit for promotion to the post of Chief Head Warder to fill up the 117 vacancies from among the holders of the post of Grade I Warder in the Prison Department, as per G.O.Ms.No.1238, Home (Prison II) Department dated 13.12.2001. Thereafter, based on the recommendation of the Promotion Board, the approved candidates selected for appointment as Chief Head Warder by promotion, was notified. But in the said proceedings, the name of the petitioner was not included and the reason cited has shown that he has not met the required standard of physical measurement and the said proceedings is under challenge in the re-numbered W.P.No.6847 of 2007. The learned counsel for the petitioner also submitted that when the petitioner was originally selected as Grade II Warder by the Superintendent, Central Prison, Cuddalore in his proceedings dated 22.5.78, he was having the requisite height, therefore, his services were regularised by order dated 8.7.80. After regularisation, his name was included in the panel of Grade II Warders fit for promotion to the post of Grade I Warders for the year 2000-01, as per the General Rules 36(b) (i) of the Tamil Nadu Jail Subordinate Service. When the further promotion to the post of Chief Head Warder came up for consideration, the Department cannot refuse to give promotion to the petitioner to the said post, on the ground that he failed to possess the requisite height.

3. In reply, the learned Special Government Pleader for the respondents, by producing G.O.Ms.No.1, Home (Pri.II) Department dated 2.1.2006, has stated that the requisite height for the post of Chief Head Warder is 168 cms, whereas the petitioner's physical measurement recorded on 12.5.2005 was only 167 cms. Again on 8.9.2005, his height was measured by the Medical Officer of Chennai Central Prison in the presence of the Superintendent and he was found to be possessing only 167 cms. Therefore, the Additional Director General of Prisons has reported that as per Rule 6 of the Special Rules for the Tamil Nadu Jail Subordinate Service, the petitioner is not eligible to claim promotion for the post of Chief Head Warder.

4. This Court also finds merit on the submissions made by the learned Special Government Pleader for the respondents. The reason being that when the height of the petitioner was measured on 12.5.2005, he was having 167 cms. However, on 8.9.2005, his

height was once again measured by the Medical Officer of Chennai Central Prison in the presence of Superintendent of the said Prison and found to be having the same height of 167 cms. Therefore, the Additional Director General of Prisons has reported that as per Rule 6 of the Special Rules for the Tamil Nadu Jail Subordinate Service, the petitioner is not eligible to claim promotion for the post of Chief Head Warder. The learned counsel for the petitioner is also unable to substantiate before this Court that the petitioner is having the requisite height of 168 cms to be considered for promotion to the post of Chief Head Warder. Secondly, the petitioner had also retired from service in the year 2010 itself. Therefore, this Court is unable to find any merit in both the writ petitions. Accordingly, both the writ petitions fail and they are dismissed. No costs.

Sd/-
Asst.Registrar

/true copy/
Sub Asst. Registrar

ss
To

1. The Secretary to Government
Home (Prisons II) Department
Secretariat
Chennai 600 009

2. The Additional Director
General of Prisons
CMDA Tower-2, Egmore
Chennai 600 008

+1 cc to the Government Pleader sr18763

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6847 of 2007

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