



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22899 of 2013
and M.P.Nos.2 and 3 of 2013

A.Ramaiah

... Petitioner

vs.

1. The Principal Secretary to Government,
Planning, Development and
Special Initiatives (SPC) Department,
Secretariat, Chennai 600 009.
2. The Member Secretary,
State Planning Commission,
Chepauk, Chennai 600 005.
3. S.Rajalakshmi
4. D.Abirami

... 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 from the 2nd Respondent pertaining to the impugned order of promotion to the 3rd and 4th Respondents through Proc.Rc.No.2484/A2/SPC/2013, dated 24.07.2013 and quash the same and consequently to direct the 1st Respondent to prepare proper and correct panel for the post of Planning Officer after rectifying the irregularities in the category of Technical Assistant from the panel of the year 2003-2004, which is the feeder category for the post of Planning Officer.

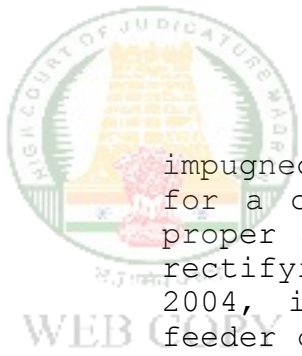
For Petitioner : Mr.P.Vijendran

For Respondents 1 & 2: Mr.S.Thangavelu,
Government Advocate

For Respondents 3 & 4: Mr.S.Senthilnathan

O R D E R

Petitioner has come up with this Writ Petition challenging the proceedings passed by the 2nd Respondent in Proc.Rc.No.2484/A2/SPC/2013, dated 24.07.2013 pertaining to the



impugned order of promotion to the 3rd and 4th Respondents and for a consequential direction to the 1st Respondent to prepare proper and correct panel for the post of Planning Officer after rectifying the irregularities in the panel of the year 2003-2004, in the category of 'Technical Assistant', which is the feeder category for the post of Planning Officer.

2. According to the Petitioner, he was selected and appointed as Planning Junior Assistant in State Planning Commission in the year 1995, through TNPSC. He was promoted as Planning Assistant in the year 1998 and thereafter, promoted as Technical Assistant only in the year 2007, instead of being promoted on 01.06.2004, as one vacancy arose due to the superannuation of one V.K.Vasudevan, Technical Assistant on 31.05.2004 A.N. It is the case of the Petitioner that, for the year 2003-2004, Respondents neither prepared a panel in the category of 'Technical Assistant', nor published the seniority list in the said category. While so, the Respondents deliberately appointed the 3rd and 4th Respondents from the Department of Economics and Statistics in the panel year 2005-2006 in the light of G.O.No.842, even though they were not eligible for appointment in the State Planning Commission, as per adhoc Rules for the post of Technical Assistant and the Tamil Nadu State and Subordinate Services Rules. After inducting the 3rd and 4th Respondents in the State Planning Commission in the year 2005, the Petitioner was promoted as Technical Assistant in the year 2007.

3. It is further stated by the Petitioner that, the representations made by him in respect of his grievance, did not yield result. As the 2nd Respondent issued provisional seniority list vide proceedings in Rc.No.302/A2/SPC/2012, dated 28.03.2012, challenging the same, the Petitioner filed an Appeal to the 2nd Respondent on 09.04.2012 and the same was rejected by an order in Rc.No.302/A2/SPC/2012, dated 04.05.2012, confirming the provisional seniority list under challenge. Thereafter, the consequential order of promotion to the 3rd and 4th Respondents through the impugned Proc.No.2484/S2/SPC/2013, dated 24.07.2013 was issued, which is under challenge in the present Writ Petition.

4. Learned counsel for the Petitioner submitted that, though the Petitioner acquired eligibility on 01.06.2004, the date on which, the post of 'Technical Assistant' became vacant, he was given promotion as Technical Assistant only on 23.03.2007. It is his contention that, the 2nd Respondent ought to have prepared a panel annually against the estimated number of vacancies expected to arise during the course of the year, as per G.O.(Ms) No.368, dated 18.10.1993 and fixed the seniority from 01.06.2004 onwards. He went on to contend that, promoting



the 3rd and 4th Respondents herein, who are not at all eligible in the panel for the year 2003-2004, is prejudicial, as they are brought from the other Department.

5. In reply, learned Special Government Pleader appearing for the Respondents, drawing reference to paragraph 17 of the counter Affidavit submitted that, there is no feeder post in the State Planning Commission for promotion to the post of Technical Assistant. Hence, the question of preparing panel for the post of Technical Assistant in the year 2003-2004, immediately after the retirement of one Vasudevan on 31.05.2004, does not arise. He further submitted that, the method of filling up of the vacant post of Technical Assistant is the discretion of the Appointing Authority as per adhoc Rules for the post, and in the case on hand, the Appointing Authority has decided to fill up the vacant post by adopting the method of "recruitment by transfer from other service".

6. Heard the learned counsel on either side and perused the material documents available on record.

7. Facts in issue are not in dispute. It is not the case of the Petitioner that, the post which he was occupying is the feeder category to the post of Technical Assistant. The Petitioner is not able to place any material before this Court to show that, the category in which he was functioning was the feeder category to the post of Technical Assistant. It is fairly conceded by the learned Special Government Pleader appearing for Respondents 1 and 2 that, the posts of Technical Assistant' must have been filled up by way of recruitment by transfer by the Appointing Authority. In the absence of any Rule, which prescribes the feeder category to the post of Technical Assistant, the relief sought for by the Petitioner cannot be acceded to.

8. In view of the foregoing, this Writ Petition stands dismissed, as devoid of merits. However, the Petitioner is at liberty to work out his remedy in the manner known to law.

No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



To:

1. The Principal Secretary to Government,
Planning, Development and
Special Initiatives (SPC) Department,
Secretariat, Chennai 600 009.
2. The Member Secretary,
State Planning Commission,
Chepauk, Chennai 600 005.

+1 CC to Mr.P.Vijendran, Advocate sr 34019.
+1 CC to The Government Pleader sr 33861.

W.P.No.22899 of 2013

NMI (CO)
SP(08/12/2020)