

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24735 of 2013

And

M.P.No.1 of 2013

D.Devaki

... Petitioner

Vs.

1.State of Tamil Nadu, rep. by its
Principal Secretary to Government,
Home (Police) Department,
Secretariat, Chennai - 600 009.

2.Director of Forensic Sciences Department,
Mylapore, Chennai - 600 004.

3.Tmt.B.Maria Selvi Rosaline

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1st respondent in G.O.(4D) 88, Home (Police XVIII) Department, dated 16.08.2013 and quash the same and direct the respondents to appoint the petitioner as Scientific Officer in Computer Forensics Division from 11.08.2010 the date on which the post was sanctioned and confer all the consequential benefits.

For Petitioner : Mr.P.Ganesan
for M/s.C.S.Associates

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

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the first respondent in G.O.(4D) 88, Home (Police XVIII) Department, dated 16.08.2013

Page numbers

and to quash the same and direct the respondents to appoint the petitioner as Scientific Officer in Computer Forensics Division from 11.08.2010 the date on which the post was sanctioned and to confer all consequential benefits.

2.The case of the petitioner is that the petitioner joined as Scientific Assistant Grade II in Forensic Science Department in 1987 in Chemistry Group through Employment Exchange. Thereafter, the Tamil Nadu Public Service Commission conducted regular selection and the petitioner was selected in the year 1988. The petitioner was given promotion as Scientific Assistant Grade I in the year 2009.

3.It is the further case of the petitioner that the Government issued order in G.O.Ms.No.707, Home (Police 18) Department, dated 11.08.2010 sanctioning separate post of Scientific Officer (now re-designated as Assistant Director) to the Computer Forensics Unit. According to the petitioner, she is qualified for the said post and hence, made representations dated 24.10.2011 and 07.04.2012 requesting to consider her for the post of Scientific Officer. Since the petitioner's request was not considered, she filed W.P.No.11707 of 2012 before this Court.

4.It is the further case of the petitioner that pursuant to the order of this Court dated 25.07.2012 made in W.P.No.11707 of 2012, the Government sent a letter dated 14.11.2012 the petitioner stating that the petitioner's request can be taken up for consideration only when vacancy arises in the unit. Thereafter, the petitioner made representations, to the second respondent on 24.05.2013 and to the first respondent on 31.05.2013 requesting to consider her for the post of Scientific Officer (now re-designated as Assistant Director) in Computer Forensics Unit, however, the same were not considered.

5.It is the further case of the petitioner that the petitioner filed W.P.No.17603 of 2013 before this Court seeking direction to the respondents to promote the petitioner as Scientific Officer (now re-designated as Assistant Director) as per the Government letter dated 14.11.2012, by considering the petitioner's representation dated 31.05.2013. This Court vide order dated 28.06.2013, disposed of the said writ petition by directing the first respondent therein to consider the petitioner's representation in the light of the letter dated 14.11.2012. Thereafter, the impugned order was passed. Hence, this writ petition.

6.The learned counsel appearing for the petitioner would submit that the petitioner's request was rejected on the ground

Page numbers

that the vacancy was filled up by transfer and posting of one B.Maria Selvi Rosaline. Thereafter, vide order dated 23.08.2013, the petitioner was given appointment as Scientific Officer. He would further submit that the petitioner fulfilled the eligibility criteria much earlier, however, she was given promotion belatedly. Accordingly, he prayed for allowing the writ petition.

7.The learned Special Government Pleader, pointing out to the counter affidavit filed on behalf of the respondents 1 and 2, would submit that as on 16.08.2013, the petitioner was only working as Scientific Assistant Grade I and she cannot be given immediate appointment as Scientific Officer in the Computer Forensic Unit on out - of - turn basis, since it will violate the accrued rights of her seniors. Further, in the Government letter dated 14.11.2012, it has been stated that the petitioner's request can be taken up for consideration only when vacancy arises in the unit.

8.The learned Special Government Pleader would further submit that the crux of the problem for the petitioner is her transfer outside Chennai and she tries to remain in Chennai City till her retirement. He would further submit that the petitioner did not exhibit any extraordinary acumen and aptitude in the field of Computer Forensics and she has not presented any scientific papers in the All India Forensic Science Congress. He would further submit that an individual possessing qualification in Computer Application alone may not be suitable for undertaking analysis of digital evidences which is the core function of the Computer Forensics. Accordingly, he prayed for dismissal of the writ petition.

9.Heard the arguments advanced on either side and perused the materials available on record.

10.The facts in the case is not disputed. The petitioner also held the post of Scientific Assistant Grade I which is the feeder category to the post of Scientific Officer. As per the Rules, the method of appointment of Scientific Officer is by recruitment by transfer from among the holders of the post of Scientific Assistant Grade I in the Tamil Nadu Forensic Science Subordinate Service and the qualification required for the post of Scientific Officer is M.Sc. Degree in the subject specified in the annexure for the division/ unit to which he is appointed; or M.Sc. (Forensic Science) Degree, the Basic Degree being in the subject specified for the division/ unit in the annexure; and experience for a period of not less than two years as Scientific Assistant Grade I in the Tamil Nadu Forensic Science Subordinate Service.

Page numbers

11.In the impugned order it is stated that the petitioner was only a Scientific Assistant Grade I as on 22.05.2013 and she is not the senior most person in the seniority list of Scientific Assistants Grade I and has not reached her turn for immediate appointment as Scientific Officer by recruitment by transfer in the Computer Forensic Unit and the vacancy was filled up by transfer and posting of one B.Maria Selvi Rosaline/ third respondent, who is already a Scientific Officer.

12.The petitioner instead of challenging the order of promotion given to the third respondent has filed this writ petition which is un-sustainable one. Further, vide order dated 23.08.2013, the petitioner was subsequently granted promotion as Scientific Officer. Further, it appears that the petitioner has also retired from service. Hence, this Court is not inclined to grant the relief sought for in this writ petition.

13.The writ petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Secretary to Government,
Home (Police) Department,
Secretariat, Chennai - 600 009.

2.The Director of Forensic Sciences Department,
Mylapore,
Chennai - 600 004.

+lcc to Mr.P.Ganesan, Advocate SR.34908

+lcc to the Government Pleader SR.35026

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MP (CO)

CB(14/12/2020)

Page numbers