

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No.9305 of 2020
and
W.M.P.Nos.11354 & 11356 of 2020

G.Vaitheeswaran

... Petitioner

Vs.

1. The Union of India,
Represented by its Chief Engineer,
Southern Command,
Pune - 411 001.
2. The Chief Engineer,
Chennai Zone,
Island Grounds, Chennai - 09.
3. The Commander Works Engineer,
Chennai - 02.
4. The Garrison Engineer,
St.Thomas Mount,
Rudra Road, Chennai - 16.
5. The Central Administrative Tribunal,
Chennai Bench,
Rep by its Registrar,
High Court Building Campus,
Chennai.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the 5th respondent Viz., Central Administrative Tribunal, Chennai bench passed in O A.NO 816/2019 dated 01.06.2020 confirming the orders of the 1st respondent in its No.132402/24/226/E1B(S)/A1 dated 24.09.2018 and No.132402/247/524/E1B(S)/A1 dated 19.06.2019 and quash the same in so far as the petitioner is concerned and consequently direct the respondents to promote the petitioner as Assistant Administrative Officer and post him at Chennai or in the South

Zone where vacancies exist with all consequential and attendant benefits from September 2018.

For Petitioner .. Mr.V.Vijayashankar

For Respondents .. Ms.Sunitha Kumari for RR1 to 4

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

What has been challenged before us is the order passed by the Central Administrative Tribunal, Chennai in OA. NO 816/2019 dated 01.06.2020, rejecting the contention of the petitioner that the consequential transfer pursuant to the promotion was challenged by the petitioner.

2.In the counter affidavit filed by the fourth respondent, the following statement has been made in paragraphs 2 to 4:-

"2.It is submitted that the writ petitioner had filed O.A.No.816 of 2019 aggrieved by the order dated 24.09.2018 promoting him to the post of Assistant Administrative Officer, and posted to Jhansi by way of transfer and the consequential order dated 19.06.2019 rejecting the representation of the petitioner. The 4th respondent had filed a detailed counter statement.

3.It is submitted that after hearing the arguments, the judgment was reserved on 17.12.2019 by Hon'ble CAT Bench, Chennai and the order in O.A.No.816 of 2019 came to be passed on 01.06.2020 dismissing the claim of the petitioner by taking the view that the transfer is an incident of service.

4.It is relevant to point out that during the pendency of the O.A., the operative date of Promotion Panel of the petitioner expired on 29th August 2019 which is evident from the HQ CESC Pune Letter No.109015/CE CZ/G Vaitheeswaren/29/LC dated 16 Mar, 2020. The above letter dated 16th March 2020 has been enclosed in page No.70 of the Typed Set of papers filed by the writ petitioner. In view of the same, the promotion to the post of AAO and joining at Jhansi would not arise at all."

3.Thus from the above, the promotion panel, which was the subject matter of the challenge before the Central Administrative Tribunal with specific reference to the consequential transfer has got itself worked out. However, the learned counsel for the petitioner submitted that in the

subsequent years viz., 2019-2020, the persons, who were juniors to the petitioner, were promoted and therefore, liberty may be given to the petitioner to challenge the same.

4. Inasmuch as the aforesaid situation would constitute a fresh cause of action, liberty is given to the petitioner to challenge the subsequent promotions made, by which, he was not considered for the promotional post. The threat of transfer no longer exist since the panel itself has expired.

5. The writ petition stands closed accordingly. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Engineer,
Union of India,
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Chennai.

+1 cc to Ms. Sunitha Kumari, Advocate Sr.No. 27972

W.P.No.9305 of 2020

rsv (co)

rr ii (10/09/2020)