

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.09.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.NOS.17241 AND 19598 OF 2019

M.Rajendran

... Petitioner

vs

The Registrar General,
High Court,
Chennai - 104.

... Respondent

PRAYER in W.P.No.17241 of 2019:

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus directing the respondent to dispose of the petitioner's representations dated 26.04.2018 and 21.06.2018.

PRAYER in W.P.No.19598 of 2019:

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari to call for the records in O.M.Roc No.31147/2018 B2 dated 05.03.2019 on the file of the respondent and quash the same.

For Petitioner : Mr.V.Bhiman

For Respondent : Mr.M.Santhanaraman

COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

These two writ petitions have been filed, the first one for a mandamus to dispose of the petitioner's representations dated 26.4.2018 and 21.6.2018 in relation to his claim of promotion, and the second one to quash the order dated 5.3.2019, by which the petitioner had been informed that another representation filed by him on 7.1.2019, during the pendency of the first writ petition, was considered by the Promotion Committee in detail on

25.2.2019 and rejected. The resolution of the Promotion Committee dated 25.2.2019 is extracted herein under:

"The representation of Thiru. M.Rajendran, Deputy Registrar (Current Section) has already been rejected on 01.11.2018. he has again given a representation for considering him for promotion to the next higher post of Joint Registrar. In view of the earlier rejection of the representation, the Committee decides to reject the repetitive representation made by him on 07.01.2019. He may be informed accordingly.

The filing of repeated representation by the employees of the High Court for the same cause is deprecated by the Committee. The Committee was informed that the practice of giving promotion to the next higher post against the vacancy created by temporary leave taken by the incumbent of that post has been discontinued since 2015, therefore, promotion against such vacancies arising on account of the temporary leave taken by the person incumbent, just for securing the enhanced retirement benefits is not permissible."

2. The order dated 5.3.2019, by which the petitioner was informed of the rejection of the representation dated 7.1.2019 is extracted herein under:

"Thiru. M.Rajendran, formerly Deputy Registrar (Current Section), High Court of Madras, Chennai, retired on superannuation on 28.02.2019 A.N., in his representation cited, has requested to consider him for promotion to the post of Joint Registrar to have enhanced terminal benefits as he was due to retire on 28.02.2019 on superannuation.

The request of Thiru. M.Rajendran was considered and the same has been rejected. The Officer is informed accordingly.

The receipt of this Official Memorandum is required to be acknowledged immediately."

3. From the common counter affidavit filed on behalf of the High Court, it is evident that the petitioner had entered service as a Reader on 8.12.1988, and in the year 2011, considerations were made for promotion to the post of Assistant Registrar. The petitioner came to be promoted as Librarian on 8.7.2011, and at that moment, the petitioner had not made any grievance with regard to his non-consideration for the post of Assistant Registrar.

4. He sought the next level of promotion as Joint Registrar on 26.4.2018 and moved a representation on 21.6.2018, whereby he also raised a grievance about certain Personal Assistants who were stated to have been directly promoted as Assistant Registrars, without serving in the cadre of Sub Assistant Registrar. The Promotion Committee, on 1.11.2018, after considering the representations of the petitioner dated 26.4.2018 and 21.6.2018, passed the following resolution:

"Considered.

As per Rule 14(b) of Madras High Court Service Rules, 2015, all categories in Division-I, shall be selection categories and promotion thereto shall be made on the grounds of merit and ability, seniority being considered only where merit and ability are approximately equal. Rule 14(e) of the Madras High Court Service Rules, 2015 says that promotion to the posts in Category-2A (Joint Registrar) shall be from Category-3 of Division-I viz., Deputy Registrar.

Registry, in the Office Note submitted that the representations received by the Registry, from Officers and Staff Members of various categories in the cadre of CO/SO/AE, Personal Assistants to Hon'ble Judges, Interpreters, etc., praying revision of ratio for promotion to the next level, were directed to be placed before the Hon'ble Sub Committee and the said Hon'ble Sub Committee considered the representations in the meeting held on 24.09.2018 and resolved to refer the matter to the One Man Committee for resolving the disputes.

Be that as it may, this Committee has considered the case of eligible persons only as per the extant rules and decided to promote the eligible Deputy Registrars to the post of Joint Registrars, which we have recorded in the foregoing paragraphs. Hence, as per the extant rules, case of Thiru. M.Rajendran, Deputy Registrar (Current Section), cannot be considered for promotion and his representations dated 26.04.2018 and 21.06.2018 are rejected."

5. It is thus evident that the original representations of the petitioner stood rejected on 1.11.2018, which resolution has not been challenged by the petitioner in either of these writ petitions, or by any other writ petition prior to that.

6. Learned counsel for the petitioner insisted that since he was not informed of the rejection of his earlier representations by the Promotion Committee on 1.11.2018, which the High Court was obliged to do, he could not be denied his benefits of promotion on the ground that he had asked it on the verge of retirement.

7. The petitioner, admittedly, retired on 28.2.2019 and he challenged the consequential rejection of his request by the Promotion Committee vide its resolution dated 25.2.2019, that was communicated on 5.3.2019.

8. We are of the considered opinion that repeated representations will not take away the impact of the earlier resolution of the Promotion Committee dated 1.11.2018, which in spite of having been brought on record was never sought to be challenged. In the absence of any challenge raised to the original rejection dated 1.11.2018, the consequential decisions, even if challenged, cannot be considered for grant of any relief in the wake of the earlier decision dated 1.11.2018.

9. Accordingly, we do not find any ground to interfere at the instance of the petitioner.

10. The writ petitions are, accordingly, rejected. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sasi

To:
The Registrar General,
High Court, Madras - 600 104.

Copy To

1. The Section Officer,
'B' (B2) Section, High Court, Madras-104.
2. The Section Officer,
Legal Cell, High Court, Madras-104.

W.P.Nos.17241 and 19598 of 2019

AD(CO)
CS/30/09/2020