

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.01.2020

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THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.Nos. 12454 and 12455 of 2017
and WMP.No. 13228 & 13229 of 2017

1. P.Madhaiyan ..Petitioner in W.P.No. 12454 of 2017

2. M.Mahendiran ..Petitioner in W.P.No. 12455 of 2017

Vs

1.The Director of Sugar Mills,
690, Anna Salai,
Nandanam, Chennai-600035.

2.The District Revenue Officer/Administrator,
Subramania Siva Co-operative Sugar Mills,
Gopalapuram - 636901
Dharmapuri

... Respondents in both WPs

Common Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to consider the name of the petitioner for promotion as Superintendent while filling up the vacant posts as per the direction of the 1st respondent in Rc.No.1616/SLI/2017 dated 04.04.2017 and pass orders.

For Petitioners : Mr. Thirumalaivasan
(in both WPs) For M/s.M.Selvam

For Respondents : Mr.R.Bala Ramesh, Spl.GP (Co-op)
(in both WPs)

COMMON ORDER

These Writ Petitions are taken up and disposed of by way of common order, since the issue involved in these Writ Petitions is common.

2. The prayer sought for in these Writ Petitions is to direct the 2nd respondent to consider the name of the petitioner

for promotion as Superintendent while filling up the vacant posts as per the direction of the 1st respondent in Rc.No.1616/SLI/2017 dated 04.04.2017 and pass orders.

3. The petitioners was appointed as Permanent Clerk in the Subramania Siva Co-operative Sugar Mills /2nd respondent on 23.10.1992 and he is still working as Clerk Grade-IV. The employees appointed along with the petitioners have been promoted to the cadre of Clerk Grade III on completion of five years as per the seniority list. Since the disciplinary proceedings are pending against him, his name was not considered promotion. The said disciplinary proceeding ended with a minor punishment of stoppage of increment without cumulative effect as on 30.06.1999. The petitioners made representations to the respondent with regard to the promotion, since no action has been taken, he filed a writ petition before this Court in W.P.No. 23740 of 2011 and this Court by order dated 06.01.2012 directed the 1st respondent to consider the proposal already submitted by the 2nd respondent and pass orders, on merits. The 1st respondent without considering the order of this Court dated 06.01.2012, by its proceedings in RC.No. 5019/SL2/2012 dated 10.04.2012 had ruled that the petitioners request shall be considered as and when vacancy arises. Therefore, the petitioners have file another writ petition in WP.Nos. 11248 of 2016 and this Court by order dated 25.06.2015 directed the 1st respondent to consider the petitioners' promotion in the light of the recommendation made by the 1st respondent. But the 1st respondent had rejected the petitioners' request on the ground that surcharge proceedings are initiated against me. Now the 1st respondent in its letter dated 04.04.2017 has permitted the 2nd respondent to fill up vacant post. Since the petitioners are eligible for promotion to the said posts, have filed the present writ petitions.

4. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the documents available on record.

5. According to the learned counsel for the petitioners, the respondents have not considered the service of 25 years rendered by the writ petitioners. Therefore, as per proceeding of the 1st respondent dated 04.04.2017, the writ petitioners are entitled for promotion during next avenue.

6. The respondents have filed counter affidavit stating that the 1st respondent had permitted the 2nd respondent to fill up the vacant posts in the Sugar Mills vide proceedings in Rc.No.1616/SL1/2017 dated 04.04.2017. It is further stated that the petitioners working as Clerk (Grade-IV) but in the feeder category for Superintendent, the persons working as Senior Clerk

in Grade-III/Asst.Store Keeper/Shift Time Keeper in Clerical II are eligible. However the petitioners does not possess the eligible qualification required to the post of Superintendent and hence they are not entitled to claim promotion to the post of Superintendent. It is further stated in the counter that the petitioners' request for promotion to the post of clerical-III is still under consideration and as and when vacancy arises in clerical-III Post, the petitioners will be given promotion.

7. Recording the aforesaid statement of the respondents, the writ petition is disposed of with the direction to the respondents to consider the petitioners' name for promotion to the post of Clerical-III as and when vacancy arises. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director of Sugar Mills,
690, Anna Salai,
Nandanam, Chennai-600035.
- 2.The District Revenue Officer/Administrator,
Subramania Siva Co-operative Sugar Mills,
Gopalapuram - 636901
Dharmapuri

+2ccs to Mr.M.Selvam , Advocate SR.No. 5799,5800
+1 cc to Government Pleader Sr.No.5742
+1cc to Mr.R.Bala Ramesh , Advocate SR.No. 5667

W.P.No. 12454 and 12455 of 2017
and

WM.P. No. 13228 & 13229 of 2017

A.SK(16/03/2020)

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