

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 05.10.2020

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM****W.P.(MD)No.16764 of 2012**

J.Tiburtian Gomez

... Petitioner

Vs.

1. The Chairman
V.O.Chidambaranar Port Trust,
Tuticorin-628 004.

2. The Deputy Conservator,
Marine Department,
V.O.C.Port Trust,
Tuticorin.

3.K.Balasekar

4.G.J.Livingsten

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings in N.M-4/6/2008-Estt./D.341 dated 09.04.2009 and quash the same as illegal and consequently, to direct the 2nd respondent to consider the petitioner for notional promotion to the post Leading Fireman w.e.f. 09.04.2009 and confer all the consequential benefits thereof within the period that may be stipulated by this Court.

For Petitioner : Mr.Mohamed Imran

For Respondents : No appearance

ORDER

This writ petition is filed challenging the order passed by the second respondent in proceedings dated 09.04.2009 granting ad-hoc promotion in favour of Mr.G.Jesudoss Livingston/4th respondent in the writ petition.

2.A perusal of the order impugned dated 09.04.2009 reveals that having considered the laurels brought to the Port by his participation in 1st South Asian Port Games held at Sri Lanka from 4th to 8th October 2008, Shri.G.Jesudoss Livingston, Fireman is promoted to the post of Leading Fireman in the Class III pay scale of Rs.4300-120-5260-130-8120 on out of turn basis. His promotion is



purely on an ad-hoc basis with effect from the date on which he joins duty as Leading Fireman in Marine Department. Further, the impugned order clarifies that his ad-hoc promotion will not confer on him any right whatsoever for regular promotion or for benefit such as seniority etc., on a future date subject to review by DPC.

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3.The impugned order is self-speaking and it unambiguously states that the ad-hoc promotion is granted on out of turn basis by virtue of the participation of Mr.G.Jesudoss Livingston in 1st South Asian Port Games held at Sri Lanka. It is further clarified in the impugned order itself is that the fourth respondent cannot claim any right over the ad-hoc promotion and he cannot claim any benefit of seniority or other benefits. Therefore, it is purely the administrative decision taken to encourage the performance of the fourth respondent in 1st South Asian Port Games. Further, it is only an ad-hoc promotion and the impugned order categorically states that the regular promotion cannot be claimed as a matter of right by the fourth respondent. The regular promotions are to be granted strictly in accordance with the rules in force and by considering all the eligible candidates, who all are aspiring to secure promotion in accordance with their respective seniority and as per the rules in force.

4.This being the impugned order, this Court is of the considered opinion that the writ petitioner's right for regular promotion is not taken away. If the writ petitioner is otherwise qualified and eligible for regular promotion, it would be considered by the competent authorities. The fact remains that the writ petition was filed in the year 2012 and the impugned order was passed in the year 2009. Therefore, the writ petition challenging the ad-hoc promotion was filed, after a lapse of three years. The writ petition is liable to be dismissed on the ground of laches. Further, the writ petitioner, at the time of filing the writ petition, was aged about 55 years and now, he would be around 63 years. This being the factum, this Court is not inclined to consider the relief as such sought for in the present writ petition and the writ petition is devoid of merits and the same stands dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Chairman
V.O.Chidambaranar Port Trust,
Tuticorin-628 004.

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2. The Deputy Conservator,
Marine Department,
V.O.C.Port Trust,
Tuticorin.

W.P. (MD) No.16764 of 2012
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