



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2020

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No. 8474 of 2020
and
W.M.P (MD) .No. 7859 of 2020

M.Mani

... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Department of Tourism, Cultural and
Religious Endowment,
rep., by its Secretary,
Fort ST.George,
Chennai-9.

2.The Commissioner,
Department of Tourism,
No.2, Tamil Nadu Tourism Complex,
Valaja Road,
Chennai-2.

3.The Director of Tourism,
Department of Tourism,
No.2, Tamil Nadu Tourism Complex,
Valaja Road,
Chennai 600 002.

4.The Tourism Officer,
Tourist Office,
Trichy Air Port,
Tiruchirapalli and District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the respondents and in particularly fourth respondent pertaining to the impugned show cause notice dated 14.12.2017 and it further communications and quash the same and consequently, to direct the second respondent to declare the probation period of the petitioner and to include his name in the forthcoming panel for the promotion of Tourist Officer.



For Petitioner : Mr.P.Vijendran
For Respondents : Mr.M.Jeyakumar
Additional Government Pleader

ORDER

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The prayer sought for herein is for a Writ of Certiorarified Mandamus to call for the records from the respondents, particularly the fourth respondent pertaining to the impugned show cause notice, dated 14.12.2017, quash the same and consequently, to direct the second respondent to declare the probation period of the petitioner and to include his name in the forthcoming panel for the promotion of Tourist Officer.

2.Heard Mr.P.Vijendran, learned counsel for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents.

3.By consent of both sides, this Writ Petition is taken up for final disposal at the stage of admission itself.

4.The petitioner was appointed as Assistant Tourist Officer on 25.06.2012 by the second respondent, since then he had been working as such without any blemish. Thereafter, he was transferred from Chennai to Trichy on 13.06.2016, where he has been continuously working.

5.While that being so, on 14.12.2017, a show cause notice was issued against the petitioner asking show cause as to why action should not be taken against him with regard to the issue that, on 20.07.2017, the petitioner was not found available at Trichy Airport Information Centre of the Tourism Department. In response to the said show cause, the petitioner had given a reply on 28.12.2017.

6.Pursuant to the said reply dated 28.12.2017, a further show cause notice was issued by the fourth respondent on 21.02.2018, even that has also been responded by the petitioner on 04.05.2018 and again, on 03.08.2019, request has been made by the petitioner, several correspondences had been taken place between the petitioner and the respondents with regard to the impugned show cause notice which emanated in the year 2017. However, till date the issue has not been concluded.

7.In this regard, Mr.P.Vijendran, learned counsel appearing for the petitioner would submit that, even though more than one show cause notice issued and reply has been given on the same issue, no final order has been passed accepting the reply given by the petitioner, thereby, the said issue has been kept pending all along for nearly about three years. By virtue of the said pendency of show cause notice issue, the petitioner's probation has not so far



been declared as completed, thereby, the service benefits of the petitioner has not been extended. Hence, the learned counsel appearing for the petitioner would urge that, the very show cause notice itself can be interfered with and quashed in the interest of justice.

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8. However, Mr. M. Jeyakumar, learned Additional Government Pleader appearing for the respondents would submit that, it was on specific reason show cause notice was issued, though reply was given, in that reply the reason cited by the petitioner was again taken into account and accordingly, a second show cause notice was issued, thereafter also, a reply was given and certain clarifications were sought for by the respondents and in this regard, as has been admitted by the petitioner's side, there has been number of communications/correspondences between the petitioner and the respondents, therefore, the issue could not be concluded in time.

9. The learned Additional Government Pleader would further submit that, at any rate, now the petitioner has given a request on 21.09.2019 to conclude the said show cause notice issue either dropping it by accepting the reply given by him or decide the same on merits and in accordance with law. Hence, the representation would be considered and final order to that effect would be passed by the respondents within a time frame to be stipulated by this Court.

10. Considering the said submissions made by the learned counsel appearing for both sides and having taken note of the factual matrix of this case, as has been discussed above, this Court is inclined to dispose of this writ petition with the following directions:

'(i) that the respondents, especially the fourth respondent to consider the reply given to the impugned show cause notice and thereafter, the various communications, where the stand of the petitioner has been stated including the last request made by the petitioner, dated 21.09.2019 in this regard and pass orders thereon, on merits and in accordance with law, within a period of six (6) weeks from the date of receipt of a copy of this order.

(ii) It is made clear that, since the petitioner's probation is yet to be declared as completed satisfactorily, the early action in this regard may be appreciable. Therefore, within a time frame stipulated above, the fourth respondent shall act upon and pass final order.'



11. With these directions the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar (CS)

Rmk

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Secretary,
Government of Tamil Nadu,
Department of Tourism, Cultural and
Religious Endowment,
Fort ST. George, Chennai-9.
2. The Commissioner,
Department of Tourism,
No.2, Tamil Nadu Tourism Complex,
Valaja Road, Chennai-2.
3. The Director of Tourism,
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