



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.20813 of 2014

and

M.P.(MD)No.2 of 2014

K.Barathy

... Petitioner

Vs.

1.The Principal Secretary/Commissioner
Arts & Culture Department, Chennai 600 008.

2.The Principal (incharge)
Government College of Fine Art,
Arts & Culture Department, Kumbakonam-2.

3.Annamalai

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the first respondent in Na.Ka.No.2503/AA2/2013, dated 23.06.2014, quash the same and consequently, direct the respondents 1 and 2 herein to promote the petitioner as Assistant with Seniority above the third respondent with all monetary and service benefits within a reasonable time.

For Petitioner : Mr.H.Thayumanaswamy

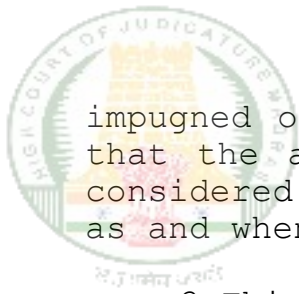
For R1 & R2 : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader

For R3 : No appearance

ORDER

The order of rejection dated 23.06.2014 rejecting the claim of the petitioner to promote him to the post of Assistant is under challenge in the present writ petition.

2.The grievances of the writ petitioner are that he was appointed as typist in the second respondent college. The learned counsel for the petitioner states that the petitioner is fully qualified for promotion to the post of Assistant. The post of Assistant was also vacant. However, the petitioner was not considered for promotion to the post of Assistant. Thus, he made a representation to the authorities concerned who, in turn, initially not considered the case of the petitioner. The petitioner filed W.P.(MD)No.1861 of 2014 and this Court directed the authorities to consider the representation. Based on the said representation, the



impugned order has been passed. The impugned order clearly states that the application of the writ petitioner seeking promotion was considered. However, the case of the petitioner will be considered as and when a decision is taken to fill up the post of Assistant.

3.This Court is of the considered opinion that promotion *per se* cannot be claimed as a matter of right. However, consideration for promotion is a fundamental right of an employee. All promotions are to be made strictly in accordance with the Rules in force. All employees, who all are eligible and waiting for promotion, are to be considered at the time of taking a decision to fill up the higher post. Equal opportunity in promotion is a constitutional mandate. Thus, the authorities competent, while undertaking the process of promotion, must consider all the eligible candidates who all are aspiring to secure promotion to the higher post. This being the principles to be followed, the reason stated in the impugned order that the case of the petitioner will be considered as and when a decision is taken to grant promotion is inconsonance with the principles and there is no infirmity or perversity.

4.Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Principal Secretary/Commissioner
Arts & Culture Department, Chennai 600 008.

2.The Principal (incharge)
Government College of Fine Art,
Arts & Culture Department, Kumbakonam-2.

+1 CC to M/s.GP (SR-22702[F] dated 24/11/2020)

W.P. (MD)No.20813 of 2014

MR(CO)

TR(03.12.2020) 2P 4C