



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2020

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.4197 of 2014

S.Mehaboobjohn

... Petitioner

Vs.

1.The Secretary to Government
Department of Industries and Commerce,
Government of Tamil Nadu,
Secretariat,
Chennai - 9.

2.The Commissioner cum Director,
Directorate of Industries and Commerce,
Government of Tamil Nadu,
Mandhavelipakkam,
Chennai - 28.

3.The Deputy Director - Chemical, (i/c)
Regional Testing Lab,
Madurai - 7.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st and 2nd respondents vide Rc.No.33693/EDS2/2011, dated 18.04.2013 and quash the same as illegal and further direct the 1st and 2nd respondents to confer promotion to the petitioner as Chief Information Officer, considering his seniority from 01.06.2008.

For Petitioner : Mr.Muthu Vijaya Pandian

For Respondents : Mr.D.Muruganandham
Addl.Govt.Pleader

O R D E R

The order, declining the request of the Writ Petitioner to promote him to the post of Chief Information / Joint Director in proceedings dated 18.04.2013, is under challenge in the present Writ Petition.

2. The petitioner was working as Special Grade Librarian Grade-I at Regional Testing Lab, Madurai, under the control of the Commissioner of Industries and Commerce. Admittedly, the petitioner



retired from service from the Office of the 2nd respondent on 31.05.2012. The present Writ Petition is filed after a lapse of two years from the date of retirement. The relief sought for is to grant retrospective promotion to the post of Chief Information Officer / Joint Director.

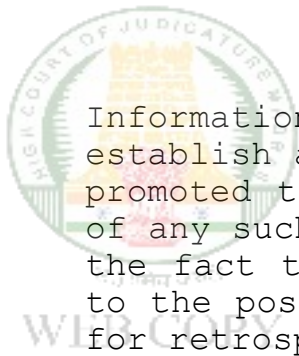
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3. The learned counsel for the petitioner is of the opinion that all along the respondents are considering the Librarian Grade-I for appointment to the post of Chief Information Officer / Joint Director, however, the case of the Writ Petitioner was not considered. The Rules are also not clear in this regard and therefore, the petitioner is eligible and is to be retrospectively appointed and consequently, the monetary benefits are to be settled. The Writ Petitioner earlier filed a Writ Petition in W.P.(MD) No.13684 of 2011 and this Court directed the respondents to consider the representation in order dated 07.02.2013 and pursuant to the said direction, the impugned order dated 18.04.2013 has been passed.

4. The reasons stated in the impugned order is that the petitioner had worked as Librarian in various grades and as per the Special Rules for Tamil Nadu Industries Subordinate Service Rules, the petitioner is not eligible for promotion to the post of Chief Information Commissioner / Joint Director, as Librarian is not a feeder category for promotion to these categories of post. The petitioner already got four promotions, including the Selection Grade and Special Grade. Therefore, the petitioner was not stagnation and further he retired from service in the year 2012.

5. Thus, this Court is of the considered opinion that the petitioner is not entitled for the relief. This apart, as per the special Rules, the post of Librarian is not a feeder category for promotion to the post of Information Commissioner (Assistant Director Level Post). Chief Information Officer post is equivalent to the Deputy Director. The petitioner was given due promotion to the post of Library Attender to Librarian Grade-IV, Librarian Grade-IV to Librarian Grade-III, Librarian Grade-III to Librarian Grade-II, Librarian Grade-II to Librarian Grade-I and Librarian Grade-I to Selection Grade and thereafter Special Grade. The post of Chief Information Officer is the Deputy Director Level Post to which Information Officer is the feeder category. Information Officer post is equivalent to the Assistant Director level. This being the hierarchy of the posts as per the Rules, the petitioner is not entitled for the relief of retrospective promotion to the post of Chief Information Officer.

6. Promotions / appointments per se cannot be claimed as a matter of right. All promotions / appointments are to be made strictly in accordance with the Rules in force. The petitioner is not even working in the cadre of Deputy Director or Joint Director in the Tamil Nadu Industrial Service, for the purpose of considering promotion to the post of Information Officer or Chief



Information Officer. This apart, the petitioner could not able to establish any one of his junior in the post of Librarian Grade-I was promoted to the post of Chief Information Officer. In the absence of any such factor and in the absence of any such Rules establishing the fact that the post of Librarian Grade-I is the feeder category to the post of Chief Information Officer, the relief as such sought for retrospective promotion deserves no merits consideration.

7. This apart, the question of appointment by way of transfer of service also would not arise in this case, as the petitioner was not working in equal category to that of the post of Assistant Director or Deputy Director. This being the factum, the impugned order passed by the respondent is in consonance with Rules in force and no infirmity as such. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

To

- 1.The Secretary to Government
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- 2.The Commissioner cum Director,
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+1 CC to SGP (SR-25556[F] dated 15/12/2020)

W.P. (MD)No.4197 of 2014

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MJ(CO)

NR (22/12/2020) 3P : 5C

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