



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 15.03.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.14871 of 2010 and
M.P.No.1 of 2010

Dr.P.Kumaragurudasan

... Petitioner

Vs.

- 1.The Government of India,
Rep. by its Secretary to Government,
Ministry of Human Resource Development,
Department of Education,
10, Jam Nagar House, Shajahan Road,
New Delhi.
- 2.The Chairman,
State Resource Centre,
20, 1st Street, Venkataraman Nagar Extn.,
Adayar, Chennai - 600 020.
- 3.The Director, State Resource Centre,
20, 1st Street, Venkataraman Nagar Extn.,
Adayar, Chennai 600 020.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to promote the petitioner to the post of Programme Associate on par with his qualification, merit and ability along with a scale of pay to such post by considering the petitioner's representations dated 10.07.2008, 22.08.2008, 23.07.2008 and 08.04.2010.

For Petitioner : Mr.Suganthan
For M/s.N.Manokaran

For 1st Respondent : Mr.S.Makesh
Additional Central Govt. St.Counsel

For Respondents 2 & 3 : Mr.S.S.Swaminathan

ORDER

The prayer sought for herein is for a writ of mandamus directing the respondents herein to promote the petitioner to



the post of Programme Associate on par with his qualification, merit and ability along with a scale of pay to such post by considering the petitioner's representations dated 10.07.2008, 23.07.2008, 22.08.2008 and 08.04.2010.

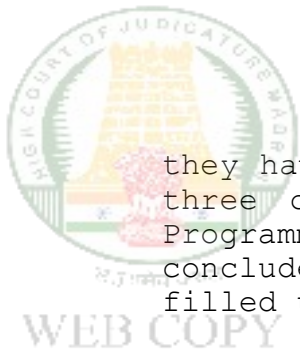
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2.The petitioner sought for a promotion to the post of Programme Associate in the respondent organisation and the respondents 2 and 3 though had made an attempt to get such promotion, however, the same having been considered by the Committee on 03.02.2010 and rejected the candidature of the petitioner as well as two others, who were considered along with the petitioner on the ground that, there were inadequacies in respect of the said 3 candidates including the petitioner for considering them for the promoted post called Programme Associate.

3.In this context only, this writ petition has been filed with the aforesaid prayer.

4.Reiterating the demand for getting promotion to the said post of Programme Associate, the learned counsel appearing for the petitioner would contend that, exactly on what reason the candidature of the petitioner was not considered or rejected by the Committee on 03.02.2010 has not been explicitly given except the recording of the minutes by the Committee, where, the word inadequacies only has been spelt out and how such inadequacies have been found out has not been stated. He would also submit that, assuming that the petitioner was not considered because of the alleged inadequacies sometime in the year 2010, atleast subsequently, the petitioner could have been considered and according to the petitioner, he is fully qualified to hold the post of Programme Associate, hence, atleast as of now let the request of the petitioner for promotion to the post of Programme Associate be considered by the respondents and in this regard, a direction can be given by this Court, he contended.

5.Per contra, Mr.S.S.Swaminathan, learned Standing Counsel appearing for the respondents 2 and 3 would submit, by relying upon the averment made in the counter affidavit that, the petitioner along with two others were considered by the Committee constituted in this regard, to decide the issue of promotion/filling up of vacancy from among the existing staff of SRC against the vacancy of Programme Associate in the academic wing. The Committee examined the qualification and experience of the three persons including the petitioner. After having conducted the interview, they conclusively found that none of the three candidates including the petitioner could be considered for the said post as their performance at the interview fell short of the expectation for the said post. Accordingly, the minutes was recorded by the Committee where



they have stated that, there were inadequacies in respect of the three candidates for considering them for the position viz., Programme Associate. Therefore, the Committee decided and concluded that the position of Programme Associate need not be filled up by promotion at present.

6. Relying upon these averments as well as the minutes of the Committee, as has been recorded, the learned Standing Counsel would submit that, this is the reason exactly why the petitioner's name was not selected for the post of the Programme Associate and the said post has never been filled up, in view of the decision taken by the Committee to keep the post of Programme Associate in abeyance for sometime.

7. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed on record.

8. No doubt, sometime in the year 2010, the Committee found that there were some inadequacies on the three candidates including the petitioner and accordingly, they were found not fit to be considered for promotion to the post of Programme Associate and consequently, decision also was taken by the Committee not to fill up the post of Programme Associate and keep the same for sometime.

9. However, whether the said decision has still been continued has not been spelt out, however by oral instruction, the learned counsel for the respondents 2 and 3 would submit that, in the post of Programme Associate during all those years, no one has been promoted.

10. Be that as it may, in view of the stand now taken by the learned Standing Counsel appearing for the respondents 2 and 3 that, the petitioner is fully qualified to hold the post of Programme Associate and if not at the time of considering his candidature in the year 2010, definitely subsequently, he has become qualified to hold the said post, the said decision taken sometime in 2010 may not hold good for the present also, therefore his candidature can be considered atleast now.

11. In this context, the learned counsel appearing for the petitioner wants to make a fresh representation or request to the respondents to consider his candidature for the promotion to the post of Programme Associate, provided, if the respondents decide the same on need basis.

12. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders.



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(i) That the petitioner is hereby permitted to give a fresh request/representation to the respondents giving details about the qualification and experience that the petitioner is having to hold the post of Programme Associate and accordingly, the said representation/request to be made by the petitioner shall be considered by the second and third respondents, for which, a Committee can also be constituted and while considering the request of the petitioner, if the respondents decide to consider similarly placed persons for the promotion to the post of Programme Associate, those candidates also along with the petitioner can be considered by the Committee to be constituted in this regard and ultimately a decision can be taken by the Committee as to whether the post of Programme Associate should be filled up by way of promotion as of now and if so, the candidature of the petitioner and similarly placed persons can be considered and after having evaluated the interse merit and the performance of the petitioner and other similarly placed persons, a conclusive decision can be taken by the Committee, based on which, ultimate orders can be passed by the second and third respondents on the representation of the petitioner to be submitted in this regard, as indicated above.

(ii) The needful, as indicated above, shall be undertaken by the respondents within a period of twelve weeks from the date of the representation from the petitioner, which the petitioner is expected to submit within two weeks from the date of receipt of a copy of this order.

13. With this direction, this Writ Petition is disposed of.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Sgl



To

1.The Secretary to Government,
Government of India,
Ministry of Human Resource Development,
Department of Education,
10, Jam Nagar House, Shajahan Road,
New Delhi.

2.The Chairman,
State Resource Centre,
20, 1st Street, Venkataraman Nagar Extn.,
Adayar, Chennai - 600 020.

3.The Director, State Resource Centre,
20, 1st Street, Venkataraman Nagar Extn.,
Adayar, Chennai 600 020.

+1CC to Mr.S.S.Swaminathan, Advocate (SR No.16634)

+1CC to Mr.N.Manokaran, Advocate (SR No.16323)

W.P.No.14871 of 2010

UM (CO)
PR (19/07/2021)