

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5691 of 2021

R.Sumanraj

... Petitioner

-vs-

1. The Principal Secretary to Government,
Co-operative, Food and Consumer Protection Department,
Secretariat, Chennai-600 009.
2. The Commissioner,
Civil Supplies and Consumer Protection Department,
IV Floor, Ezhilagam,
Chepauk, Chennai-600 005.
3. The Secretary,
Tamil Nadu Public Service Commission,
V.O.C.Nagar, Park Town,
Chennai-600 003.

... Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing the respondents 1 & 2 to promote the petitioner to the post of Assistant Commissioner (Inspection) with consequent benefits from April 2020.

For Petitioner : Mr.N.Baaskaran
For R1 & R2 : Mr.L.P.Shanmuga Sundaram
Special Government Pleader
For R3 : Mr.M.Loganathan

O R D E R

The petitioner has filed this writ petition seeking a direction to the respondents 1 & 2 to promote the petitioner to the post of Assistant Commissioner (Inspection) with consequent benefits from April 2020.

2. Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader takes notice for R1 and R2 and Mr.M.Loganathan, learned counsel for R3. By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. According to the petitioner, he joined the services of 2nd respondent as Junior Technical Assistant on 26.04.2013 through TNPSC and his services were regularized by order dated 26.06.2015 by the 2nd Respondent. It is the case of the petitioner that though he worked for more than six years and also completed the Training Programme, his probation was not declared on account of the reason that he did not execute the work of Junior Technical Assistant and is working only as Assistant. Subsequently, a consent was obtained from him for change of the nomenclature of the post from Junior Technical Assistant to Assistant and a proposal was sent to the 1st respondent for necessary approval. It is the case of the petitioner that since there was no response on the proposal, he was constrained to file a petition in W.P.No.25990 of 2019, which is pending. Pending Writ Petition, his services were regularized after more than six years with effect from 26.04.2015, which resulted in losing his seniority and promotion. Hence, he made a representation to the 1st respondent on 30.06.2020 for grant of promotion as Assistant Commissioner (Inspection) and since the said representation did not evoke any response, the petitioner is before this Court seeking for a suitable direction.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation dated 30.06.2020 is already pending with the respondents, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondent herein to consider the representation of the petitioner dated 30.06.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of all the representation and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representations, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

1. The Principal Secretary to Government,
Co-operative, Food and Consumer Protection Department,
Secretariat, Chennai-600 009.
2. The Commissioner,
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3. The Secretary,
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+1 CC to The Special Government Pleader sr 15157.

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PVS (CO)
SP(08/07/2021)