

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.5085 of 2015
and
M.P.No.1 of 2015

S.Jayashankar

... Petitioner

Vs

1.The Director of Sugar,
690, Anna Salai,
Nandanam, Chennai - 600 035.

2.The Managing Director / Commissioner
Subramaniya Siva - Co - Operative
Sugar Mills Ltd.,
Gopalapuram, Alapuram Post,
Pappireddipatti Taluk,
Dharmapuri Dist-636 904.

3.A.Palani

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st and 2nd respondent to promote the petitioner as Supervisory "C" as on date the vacancy arose and consequently grant all service benefits.

For Petitioner : Mr.D.Johnsamuvel

For R1 : Mr.Bala Ramesh, Spl. GP

For R2 : Mr.L.P.Shanmugasundaram, Spl. GP

For R3 : Mr.Ranga Ramanujam

ORDER

The relief sought for in this writ petition is to direct the respondents 1 & 2 to promote the petitioner as Supervisory "C" and grant all the benefits to him.

2. According to the petitioner, he was appointed as Clerical IV on 16.11.1992 and his service was regularised by order dated 28.02.1994. Subsequently, the 1st respondent herein vide order dated 03.10.1994, rectified the error crept-in in the designation of the petitioner as Clerical III and communicated to the same to the 2nd respondent. Thereafter, the second respondent by proceedings dated 31.12.1994, placed the petitioner in Clerical III grade with effect from 03.10.1994. It is the grievance of the petitioner that the 3rd respondent, who was initially appointed as Seasonal Clerk, was not qualified to hold the post of Clerical III, however, he was suo moto placed as Clerical Grade III with effect from 17.10.1994 by the 2nd respondent; and that he was placed above the petitioner in the seniority list issued on 06.06.2014, for promotion to the post of Superintendent, Supervisory-C. Stating that he is fully qualified and eligible to the said post, the petitioner made a representation on 09.02.2015 to the respondents 1 & 2 seeking promotion. Finding no response on the same, he has come up with the present writ petition before this Court.

3. Denying the averments made in the writ petition, the 3rd respondent filed a detailed counter affidavit. It is inter alia stated therein that he was appointed as Shift Time Keeper (Regular) by the 2nd respondent on 16.11.1992 and he joined duty on 18.11.1992. Later his service was regularised by the proceedings of the 2nd respondent dated 28.02.1994 in the post of Clerk with effect from 19.11.1993 and thereafter he was placed in Clerical Grade III with effect from 17.10.1994. It is further stated therein that the third respondent joined the service on 18.11.1992 whereas the date of joining of Petitioner is 23.11.1992 and hence, the third respondent was placed above the petitioner in the seniority list issued for the post of Supervisory C, on the basis of the entry into the service. With these averments the third respondent sought to dismiss the writ petition.

4. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel appearing for all the parties, this Court directs the respondent authorities to consider the representation of the petitioner dated 09.02.2015 and pass appropriate orders, on merits and in accordance with law, after giving due opportunity to the petitioner as well as the 3rd respondent, within a period of eight (8) weeks from the date of receipt of a copy of this order.

5.This Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mtl
To

1.The Directorate of Sugar,
690, Anna Salai,
Nandanam, Chennai - 600 035.

2.The Managing Director / Commissioner
Subramaniya Siva - Co - Operative
Sugar Mills Ltd.,
Gopalapuram, Alapuram Post,
Pappireddipatti Taluk,
Dharmapuri Dist-636 904.

+1cc to the Government Pleader Sr.19119
+1cc to Mr.Balaramesh, Advocate Sr.18289
+1cc to Ms.Malarvizhi Udayakumar, Advocate Sr.18253

W.P.No.5085 of 2015

um[co]
srg 11/06/2021

सत्यमेव जयते

WEB COPY