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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15104 of 2021

M.Raja

.. Petitioner

-vs-

1. The Registrar General,
High Court, Chennai-104.
2. The Chief Metropolitan Magistrate,
Egmore, Chennai 600 008.
3. R.Sridhar

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the second respondent in Roc.No.03/2021 dated 02.06.2021 and quash the same and direct the second respondent to promote the petitioner to the post of Record Clerk by way of transfer of service on par with his immediate junior Mr.R.Sridhar (the third respondent herein) taking into account his seniority in the post of Office Assistant and grant him all consequential benefits.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.M.Santhanaraman
for RR 1 and 2

ORDER

(Made by Senthilkumar Ramamoorthy,J)

The petitioner challenges an order of the second respondent in Roc.No.03/2021 dated 02.06.2021 whereby the petitioner was informed that his promotion to the post of record clerk would be considered in accordance with seniority.



2. The petitioner states that the post of record clerk by way of transfer of service is required to be filled up in accordance with seniority. However, in the year 2017, in contravention of the rules, selection was made on the basis of a test. Although there were 15 vacancies and the petitioner would have qualified if the appointment had been made on the basis of seniority, the petitioner failed to make the cut because he did not secure sufficient marks.

3. When the petitioner approached this Court earlier and requested that he be promoted to the post of record clerk, this Court, by order dated 16.04.2021 in W.P.No.3204 of 2021, noticed that recruitment by transfer of service to the post of record clerk would be governed by the Tamil Nadu General Subordinate Service Rules. The petitioner says that this court also recorded the concession of the standing counsel for the respondents that such rules do not envisage selection for such post by administering a test. Consequently, it is contended that the failure to promote the petitioner in the year 2017 was based on contravention of the relevant rules and has caused great prejudice to the petitioner.

4. Mr.M.Santhanaraman, learned standing counsel, accepts notice on behalf of respondents 1 and 2.

5. Upon perusal of the impugned order, it is evident that the second respondent herein took into consideration the fact that the petitioner had participated in the test conducted in the year 2017. It is also recorded therein that 15 candidates were selected in the order of merit against 15 vacancies and that the petitioner was not selected because he was placed 21st in the test. On such basis, the impugned order records that the petitioner should not have challenged the selection process after participating in such process. After setting out the aforesaid facts relating to the selection in the year 2017, the impugned order also records that subsequent appointments have been made on the basis of seniority and that the petitioner would be considered for promotion as and when vacancies arise entirely on the basis of seniority.

6. Given the fact that the petitioner admittedly participated in the selection process in the year 2017 and failed to qualify, we find that the impugned order contains cogent reasons for rejecting the petitioner's claim. We also note that the petitioner has been informed that he would be considered for promotion in accordance with seniority as and when vacancies arise. In these facts and circumstances, we find that the impugned order does not call for interference in the exercise of extraordinary jurisdiction under Article 226 of the Constitution.



Accordingly, W.P.No.15104 of 2021 is dismissed without any order as to costs. Nothing in this order shall preclude the consideration of the petitioner's candidature for promotion in accordance with applicable laws.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sra

To:

1. The Registrar General,
High Court, Chennai-104.
2. The Chief Metropolitan Magistrate,
Egmore, Chennai 600 008.

Copy To
The Legal Aid Section,
High Court, Madras-104.

+1cc to Mr.P.Rajendran, Advocate, S.R.No.35647

W.P.No.15104 of 2021

VSNII(CO)
CS/26/07/2021