



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.18170 of 2013

and

M.P (MD) Nos.1 and 2 of 2013

WEB COPY

M.Annathurai

... Petitioner

Vs.

1.The Government of India,
Rep by its Director,
Ministry of Agriculture and Irrigation
(Department of Food)
New Delhi.

2.The Secretary to Government,
Information and Tourism Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.

3.The Commissioner,
Directorate of Technical Education,
Sardar Patel Road,
Chennai-600 025.

4.State Institute of Hotel Management,
and Catering Technology,
Rep by its Principal and Secretary,
Thuvakkudi,
Trichy-620 015.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of recovery passed by the 4th respondent in மா.உ.மே.உ.தொ.நு./2013/155, dated 15.07.2013 quash the same and consequently, direct the respondents to consider the petitioner for promotion to the post of Administrative Officer.

For Petitioner : Mr.M.Veilkani Raju
For R1 to 4 : Mr.K.S.Selvaganesan
Government Advocate

ORDER

This Writ petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of recovery passed by the fourth respondent in மா.உ.மே.உ.தொ.நு./2013/155, dated 15.07.2013 and consequently, to direct the respondents to consider



the petitioner for promotion to the post of Administrative Officer.

2.The petitioner was appointed as Junior Assistant on 07.09.1987 and thereafter, he was promoted as Accountant on 14.08.2000 and he was promoted as Senior Accountant on 07.05.2006. It is stated in the petition that the next avenue for promotion is the post of Superintendent, which is re-designated as Administrative Officer. Later, the petitioner was reverted to the original post of Junior Assistant. It is further stated that the order of reversion was challenged by the State Institute of Hotel Management Staff Welfare Association, by its Secretary in W.P.No.49848 of 2006. Though the writ petition was dismissed for non-prosecution, it is submitted by the petitioner that he came to know about the dismissal only in 2012, when recovery was ordered against the petitioner. It is also stated that several writ appeals were filed and the same are pending at SR stage.

3.The learned counsel appearing for the petitioner submitted that the impugned order of the fourth respondent is arbitrary and unsustainable in law. It is further submitted that the impugned order of recovery has been passed without affording an opportunity to the petitioner and hence violative of principles of natural justice.

4.It is now settled by the Hon'ble Supreme Court time and again that the order of recovery against delinquent cannot be passed without giving an opportunity to the delinquent. In that view of the matter, this Court has no reason to sustain the order.

5.The learned counsel appearing for the petitioner submitted that the respondent may also consider the petitioner's promotion to the post of Administrative Officer. The request of the petitioner for consequential prayer cannot be considered, when the writ petition is allowed on the short ground of violation of principles of natural justice. Since this Court has not disposed of the writ petition on merits, this Court cannot issue consequential directions. However, the petitioner can submit a representation to the respondents. In case, the petitioner's request for promotion is justified, the respondents shall pass appropriate orders on merits and in accordance with law. It is also open to initiate proceedings for recovery after following the principles of natural justice. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

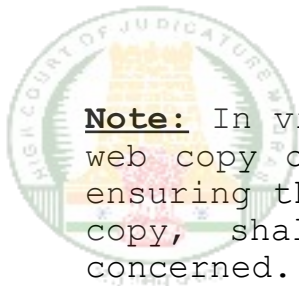
Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

WEB COPY

To

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(Department of Food)
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and Catering Technology,
Rep by its Principal and Secretary,
Thuvakkudi,
Trichy-620 015.

+1 CC to M/s.The Special Government Pleader (SR-26080[F] dated
12/08/2021)

W.P. (MD) .No.18170 of 2013

and

M.P (MD) Nos.1 and 2 of 2013

11.08.2021

_RS (01.09.2021) 3P 6C