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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.5072 of 2021

S.Panneer Selvam

... Petitioner

Vs.

The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

... Respondent

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus to direct the respondent to revise the seniority of the petitioner in the post of Assistant Planner based on the petitioner's representation dated 29.07.2020 and further direct the respondent to promote the petitioner to the post of Senior Planner with all service benefits.

For Petitioner : Mr.K.Sannjay
for Mr.V.C.Selvasekaran

For Respondent : Mrs.Malarvizhi Udayakumar,
Standing Counsel

O R D E R

The relief sought for in the writ petition is for issuance of Mandamus to direct the respondent to revise the seniority of the petitioner in the post of Assistant Planner based on the petitioner's representation dated 29.07.2020 and to direct the respondent to promote the petitioner to the post of Senior Planner with all service benefits.

2.Brief facts of the case:

Initially the petitioner was appointed as a Assistant Planner in the respondent's Authority and thereafter, promoted as a Deputy Planner. In order to fill up the five posts of Assistant Planner vacancies anticipated in the year 2001-2002, the respondent has to draw a panel and out of the five



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vacancies, 3 posts have to be filled up by Direct Recruitment and two posts by promotion. Accordingly, the respondent had drawn a panel in the feeder post as per seniority and placed before the promotion committee and the Committee had finally recommended four candidates to the post of Assistant Planner. Out of four recommended candidates, the respondent had posted one P.Munusamy on regular promotion in the existing vacancy, whereas others in the absence of Promotional/Transfer vacancy, have been temporarily promoted as Assistant Planner in the vacancy meant for direct recruitment till the post is filled up by the direct recruitment. Further, the respondent had published the professional seniority list of employees in the category of Assistant Planner in memo No.E2/10725/2010, dated 09.07.2010 and the petitioner was also promoted as Deputy Planner by the respondent by proceedings dated 17.09.2012. Further, the petitioner came to know that while the respondent promoting the recommended candidates as stated above, had not reverted those candidates, who have been promoted temporarily in the post of Assistant Planner in the vacancy meant for Direct recruitment while recruiting the petitioner and other by proceedings dated 28.11.2007

3.In view of the failure to revert those candidates who have been temporarily promoted on ADHOC basis, the petitioner and other recruiters appointed directly have been denied their seniority and future promotion which is perse illegal. In order to overcome the existing anomaly the petitioner requested the respondent to issue the certified copies of the recommendations and other connected records by right to information Act in respect of the promotion made to the post of Assistant Planners dated 17.05.2001 and on perusal of the same it is evident that one V.Kumar, who was temporarily promoted on 06.08.2001 in the vacancy meant for direct Recruitment was not reverted back while filling up the post by direct recruitment and moreover the said Kumar was by virtue of the said illegal promotion was granted further promotion and got retired from the service. Hence, the petitioner has made a representation dated 29.07.2020 to the respondent requesting them for a revised seniority to the post of Assistant Planner substantiating with supporting documents in order to revert the said V.Kumar to Planning Assistant Grade-1 notionally. But the same was pending. Hence, the writ petition.

4.The learned counsel for the petitioner would submit that without reverting the temporarily promoted candidates to the post of Assistant Planners, the respondent has conducted recruitment and appointed the petitioner and others as Assistant Planner. Thereby, the petitioner and other recruiters appointed directly have been denied their seniority and future promotion. Hence, the petitioner made a representation dated 29.07.2020 but the same has not been considered.



5.The learned Standing Counsel appearing for the respondent would submit that the petitioner has made a representation on 29.07.2020 to the respondent to revise the seniority list for the year of 2010 for the post of Assistant Planner but as seen from the representation the petitioner has not specifically requested to revise the seniority list drawn by the respondent for any period, but however, he made a request to revise the seniority list in the post of Assistant Planner. Further, the learned Standing Counsel appearing for the respondent would submit that the representation of the petitioner dated 29.07.2020 is a belated representation.

6.At this juncture, the learned counsel for the petitioner would submit that the aforesaid representation of the petitioner dated 29.07.2020 will satisfy the authority concerned and such representation has been submitted within a reasonable time.

7.Heard the learned counsels on either side and perused the materials placed on record.

8.It is seen that as per the respondent, the representation of the petitioner dated 29.07.2020 has been submitted belatedly, but according to the petitioner, it has been submitted within the reasonable time and therefore, the said controversy has to be decided by the authority concerned. Hence, this Court inclined to give a direction to the respondent to consider the representation of the petitioner dated 29.07.2020 on merits and in accordance with law as early as possible preferably within a period of six weeks from the date of receipt of a copy of this order. No costs.

9.With the above direction this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

Dua



To

The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1cc to Mr.V.C.Selvasekaran, Advocate SR.No.27600

W.P.No.5072 of 2021

CA(CO)
GMY(11/05/2022)