



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.5069 of 2021
and
W.M.P.No.5644 of 2021

R.Durai

... Petitioner

vs.

1. The Principal Secretary to Government,
Labour and Employment Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner of Labour,
DMS Complex, Chennai - 600 006.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Respondent in G.O.(D).No.94, (Labour and Employment E1 Department) dated 21.02.2019 and quash the same and further direct the respondent to grant notional promotion to the petitioner from the year 2015-16.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mrs.P.Rajarajeswari
Government Advocate

O R D E R

This writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in G.O.(D).No.94, (Labour and Employment E1 Department) dated 21.02.2019 and quash the same and further direct the respondents to grant notional promotion to the petitioner from the year 2015-16.

2. According to the petitioner, the petitioner has challenged the impugned Government Order in G.O.(D).No.94, Labour and Employment (E1) Department, dated 21.02.2019 for rejecting the claim of the petitioner for inclusion of his name fit for promotion as Deputy Commissioner of Labour, for the years 2015-16 and 2017-18. According to the petitioner, the petitioner is fully fit for the post of Deputy Commissioner of Labour (now re-designated as Joint



Commissioner of Labour). But the 1st respondent has not recommended the name of the petitioner for promotion for the reason as stated in the impugned order is unsustainable. According to the petitioner, the petitioner is eligible for promotion, the 1st respondent ought to have granted promotion to him. Therefore, he prays that the impugned order is liable to be quashed.

3. The counter affidavit filed by the respondents, wherein it is stated that by Government Order in G.O.(D). No.94, Labour and Employment (E1) Department, dated 21.02.2019, it was ordered in para-4(ii) to delete the petitioner's name from the panel of Labour Officers (now re-designated as Assistant Commissioner of Labour) fit for promotion as Assistant Commissioner of Labour (now re-designated as Deputy Commissioner of Labour) for the year 2015-16, since the name of the petitioner was included in the panel of Labour Officer (now re-designated as Assistant Commissioner of Labour) fit for promotion as Assistant Commissioner of Labour (now re-designated as Deputy Commissioner of Labour) for the year 2012-13 below one G.Lally, as Serial No.4.

4. It is further stated that while considering the petitioner for promotion to the post of Deputy Commissioner of Labour (now re-designated as Joint Commissioner of Labour), the estimate of vacancy for the post of Deputy Commissioner of Labour (now re-designated as Joint Commissioner of Labour) for the year 2013-14 was approved as 11, as per the Government Order in G.O.(D).No.442, Labour and Employment Department, dated 20.08.2013 and all the vacancies have been filled by promoting 11 Assistant Commissioners of Labour (who were promoted as Assistant Commissioners of Labour prior to the year 2012-13). Moreover, the Assistant Commissioners of Labour (now re-designated as Deputy Commissioner of Labour) included in the panel were seniors to the petitioner. As such, after promoting the seniors to the petitioner as Deputy Commissioners of Labour (now re-designated as Joint Commissioner of Labour), no vacancy for the year 2013-14 exists. Therefore, the name of the petitioner could not be considered for inclusion in the panel of Deputy Commissioner of Labour (now re-designated as Joint Commissioner of Labour) for the year 2013-14.

5. According to the respondents, the 1st respondent by the Government Order in G.O.(D).No.641, Labour and Employment (E1) Department, dated 18.11.2015 has approved a 'NIL' estimate of vacancy and a 'NIL' panel for the post of Joint Commissioner of Labour for the year 2014-15. Therefore, the name of the petitioner could not be considered for inclusion in the panel of Deputy Commissioner of Labour (now re-designated as Joint Commissioner of Labour) for the year 2014-15.



6. It is further stated that the 1st respondent approved the estimate of vacancy for the year 2015-16 for the post of Deputy Commissioner of Labour (now re-designated as Joint Commissioner of Labour) at 6 vide G.O.(2D)No.642, Labour and Employment (E1) Department, dated 08.11.2015, which is on the basis of 4 likely promotional vacancies and 2 vacancies wanted for unexpected contingencies. However, during the year 2015, no officers in the cadre of Deputy Commissioner of Labour were promoted. Therefore, the likely promotion vacancies and vacancies for unexpected contingencies did not arise. Hence, according to the respondents, the dispute is for issuing a 'NIL' panel for the post of Deputy Commissioner of Labour for the year 2015-16.

7. In view of the aforesaid fact, the respondents have not drawn any promotion panel for the years 2015-16 and 2016-17 and also 'NIL' panel prepared by the respondents. In the meantime, the petitioner retired from service on 31.07.2016.

8. In the light of the above, the petitioner has not ultimate any mela fide or his juniors have been overlooking the petitioner in the present case on hand. Therefore, considering the said fact of the case and the statements made in the counter affidavit, there is no case has made out to interfere with the impugned order passed by the 1st respondent.

9. In the result, the writ petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Principal Secretary to Government,
Labour and Employment Department,
Fort St. George, Chennai - 600 009.

2. The Commissioner of Labour,
DMS Complex, Chennai - 600 006.

+1cc to Mr.Adithya Reddy, Advocate SR. No. 21268

+1cc to Government Pleader SR. No. 21730

W.P.No.5069 of 2021