



W.P(MD)No.5557 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5557 of 2018

and

W.M.P.(MD)No.5452 & 5453 of 2018

A.Rajarathinam

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Secretary to Government,
Adi-Dravidar & Tribal Welfare Department,
Secretariat,
Chennai-9.

2.The Director of Adi-Dravidar and Tribal Welfare Officer,
Adi-Dravidar and Tribal Welfare Department,
Chepauk,
Chennai-5.

3.The District Adi-Dravidar and Tribal Welfare Officer,
O/o the District Adi-Dravidar and Tribal Welfare Officer,
Madurai,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.Ra.2/14509/2015 dated 09.02.2018 and quash the same as illegal and consequently to direct the 2nd respondent to promote the



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petitioner as Drawing Instructor notionally from the date on which his junior viz. K.Karuppaih was promoted in the light of G.O.Ms.No.95 Adi Dravidar and Tribal Welfare Department dated 25.10.2011 issued by the first respondent and in the light of recommendation made by the third respondent in his proceedings in Na.Ka.No.22126/2015/ஆதி3/dated 10.03.2017 with all attended monetary benefits within the period that may be stipulated by this Court.

For Petitioner : Mr.A.Nawazkhan
for M/s.Ajmal Associates

For Respondents : Mr.J.K.Jayaseelan
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The writ petitioner joined the respondent Department as cook in the year 1981. He became Night Watchman in the year 2007. According to the petitioner, he should have been promoted to the post of Drawing Instructor. He claims that his junior was given such promotion in the year 2012 itself. Claiming the relief of promotion, he filed W.P.(MD)No.940 of 2018. When the matter was taken up for disposal, the Government informed the Court that the petitioner's request was already rejected vide communication dated 09.02.2018. Recording the said submission, the writ petition was disposed of. Thereafter, the present writ petition has been filed challenging the said communication dated 09.02.2018.



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3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned communication and grant relief as prayed for.

4. Per contra, the learned Government Advocate appearing for the respondents submitted that the petitioner has made out any case for grant of relief.

5. I carefully considered the rival contentions and went through the materials on record.

6. The petitioner could not have challenged the impugned communication for the simple reason that it was addressed to the Government Counsel. The communication made between client and counsel cannot be the subject matter of formal challenge in the writ petition. Be that as it may, the reasons projected by the learned Government Advocate appeals to me. The writ petitioner was holding the post of Night Watchman. Retirement age for the post of Night Watchman was 60. On the other hand, for the post of Drawing



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Instructor being a teaching post, the retirement age during the relevant time was

58. The petitioner probably did not aspire for the teaching post earlier in point of time as he probably wanted two more years of service. By the time, he came to this Court, he had already crossed the age of 58. Of-course, now the age for those holding teaching post has been enhanced to 60. The petitioner who has now crossed 60 years of age cannot now turn around and seek promotion to the post of Drawing Instructor for which the retirement age was originally fixed as 58. I do not find any ground to grant relief.

7. The Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

15.11.2022

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Secretary to Government,
Adi-Dravidar & Tribal Welfare Department,
Secretariat,
Chennai-9.
- 2.The Director of Adi-Dravidar and Tribal Welfare Officer,
Adi-Dravidar and Tribal Welfare Department,
Chepauk,
Chennai-5.
- 3.The District Adi-Dravidar and Tribal Welfare Officer,
O/o the District Adi-Dravidar and Tribal Welfare Officer,
Madurai, Madurai District.



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G.R.SWAMINATHAN, J.

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