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W.P.No.13250 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.13250 of 2016
and
W.M.P.Nos.11635 & 11636 of 2016

V.Muthu Irulandi

...Petitioner

-Vs-

1.The Additional Chief Secretary/
Chairman & Managing Director,
Tamilnadu Small Industries Corporation Ltd.,
(Also known as TANSI),
Guindy, Chennai - 600 032.

2.S.S.Saravana Kumar

3.P.Kalavathi

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the connected records relating to the proceedings of the 1st respondent herein made in Rc.No.199/EB/2016 dated 31.03.2016, insofar as the same is denying petitioner's right of holding the post of Works Manager (i/c) in Foundry & Engineering Works, TANSI, Pettai and quash the same and consequently



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direct the 1st respondent herein to promote/post the petitioner herein as Works Manager, Foundry & Engineering Works, TANSI, Pettai.

For Petitioner : No Appearance

For R1 : Mr.M.Shahjahan,
Special Government Pleader

For R2 & R3 : No Appearance

ORDER

There is no representation on behalf of the petitioner, as well as the respondents 2 and 3.

2. The petitioner seeks for promotion to the post of Works Manager in Tamil Nadu Small Industries Corporation Ltd. Pending the writ petition, the petitioner had reached the age of superannuation.

3. It is a settled proposition of law that mere inclusion of name in the promotional panel will not confer a right to claim promotion. The Hon'ble Supreme Court, in the case of *Union of India vs. S.S.Uppal and another* reported in *(1996) 2 SCC 168*, has upheld this proposition.



4. Likewise, in the case of ***Union of India and others vs.***

N.R.Banerjee and others reported in ***(1997) 9 SCC 287***, a similar view was

taken by the Hon'ble Supreme Court in the following manner:-

"12.....It is true that filling up of the posts are for clear or anticipated vacancies arising in the year. It is settled law that mere inclusion of one's name in the list does not confer any right in him/her to appointment. It is not incumbent that all posts may be filled up. But the authority must act reasonably, fairly and in public interest and omission thereof should not be arbitrary. In Shankarasan Dash v. Union of India [(1991) 2 SCR 567], the Constitution Bench had held that inclusion of the name of a candidate in a merit list does not confer any right to be selected unless the relevant recruitment rules so indicate. The State is under no legal duty to fill up all or any of the vacancies even though the State acts in arbitrary manner. In Babita Prasad & Ors. v. State of Bihar & Ors. [(1993) Supp. 3 SCC 268] it was held that mere inclusion of one's name in the panel does not confer on him/her any indefeasible right to appointment. It was further held that the purpose of making panel was to finalise the list of eligible candidates for appointment. The preparation of the



panel should be to the extent of the notified or anticipated vacancies. Unduly wrong panel should not be operated. In Union Territory of Chandigarh v. Dilbagh Singh & Ors. [(1993) 1 SCC 154] it was held that the mere fact that a candidate's name finds a place in the select list as a selected candidate for appointment to a post, does not confer on him/her an indefeasible right to be appointed in such post in the absence of any specific rule entitling him to such appointment. In State of Bihar & Ors. v. Secretariat Assistant Successful Examinees Union 1986 & Ors. [(1994) 1 SCC 126] it was held that a person who is selected and empanelled does not on account of empanelment alone acquire any indefeasible right to appointment. Empanelment is, at the best, a condition of eligibility for the purposes of appointment and that by itself does not amount to selection or creation of a vested right to appointment unless relevant rules state to the contrary. However, in the light of the above principles and in the light of the clear rules extracted hereinbefore, it is seen that the exercise of preparation of the panels is undertaken well in advance to fill up the clear vacancies of anticipated vacancies. The preparation and finalisation of the yearly panel, unless



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duly certified by the appointing authority that no vacancy would arise or no suitable candidate was available, is a mandatory requirement. If the annual panel could not be prepared for any justifiable reason, yearwise panel of all the eligible candidates within the zone of consideration for filling up the vacancies each year should be prepared and appointment made in accordance therewith."

5. In view of the ratio laid down in the aforesaid decisions, as well as the fact that the petitioner had reached the age of superannuation, no effective orders can be passed in the present writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index:Yes/No
Internet:Yes/No
hvk

To

The Additional Chief Secretary/
Chairman & Managing Director,
Tamilnadu Small Industries Corporation Ltd.,

5/7



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Guindy, Chennai - 600 032.

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M.S.RAMESH,J.

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