



WEB COPY



W.P.No.1989 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM :

THE HON'BLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.1989 of 2020
and
W.M.P.No.2331 of 2020

S.Elizabeth Mary

... Petitioner

Versus

1.The Tamilnadu Tourism Development Corporation Limited,
Rep.by its Chairman and the Board of Directors,
No.2, Walajah Road,
Chennai – 2.

2.The Tamilnadu Tourism Development Corporation Limited,
Rep.by its Managing Director,
No.2, Walajah Road,
Chennai – 2.

3.The Tamilnadu Tourism Development Corporation Limited,
Rep.by its General Manager,
No.2, Walajah Road,
Chennai – 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the 3rd respondent in her proceedings Memo No.2034/A2/2019, dated 18.11.2019 and quash the same and consequently direct the respondents to give the



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retrospective effect from 21.01.1995 to the petitioner's promotion as storekeeper with all other monetary benefits.

For Petitioner : Mr. R. Hemalatha

For Respondents : Mr. R. Bala Ramesh

ORDER

This Writ Petition has been filed to call for the entire records relating to the impugned order passed by the 3rd respondent in the proceedings is Memo No.2034/A2/2019, dated 18.11.2019 and quash the same and consequently direct the respondents to give retrospective effect from 21.01.1995 to the petitioner's promotion as 'Store Keeper' with all other monetary benefits.

2.The petitioner's name was appointed as sponsored through the District Employment Exchange, Coimbatore, for the post of Telephone Operator at Hotel Tamilnadu, Coimbatore, by order dated 18.04.1983 and she joined the duty on 22.04.1983. Subsequently, the petitioner was regularised w.e.f. 01.03.1984. The next cadre of this post was Assistant, but the respondent gave the promotion as 'Store Keeper' on 06.07.1997, which is lower cadre to the post of Telephone Operator and due to personal reasons, the petitioner could not accept the promotion and the same was



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acknowledged by the respondents. The refusal of promotion is valid only for three years and the respondent/Corporation had granted promotion more than 30 persons as Store Keeper between the years 1993 to 2017. The petitioner superannuated on 31.05.2019 and written representation dated 20.06.2019 was made to the first and second respondents to re-consider the promotion as Store Keeper with retrospective effect 21.05.1995 and the same was rejected by the third respondent, by proceedings in Memo No.2034/A2/2019, dated 18.11.2019. Aggrieved by the above rejection order, the petitioner has come forward with the present Writ Petition before this Court for the relief stated supra.

3.The learned counsel for the petitioner submits that the petitioner was appointed as Telephone Operator in the year 1983 and joined service on 22.04.1983, and regularised on 01.03.1984. As per the regularisation, she was promoted as Assistant, but, she was offered to the post of 'Store Keeper' in the year 1987 and due to personal reasons, she could not take up the promotion and her refusal for promotion is valid only for three years, even according to the relinquish letter given by the petitioner. The petitioner was promoted as 'Store Keeper' on 20.08.1987 and thereafter, she superannuated on 31.05.2019. The petitioner approached this Court by way of



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W.P.No.20127 of 2013, to direct the respondents therein to promote her as Accounts Assistant in the respondents/Corporation, with effect from 05.04.2008 with all attendant and monetary benefits and the said writ petition was dismissed on 27.11.2016. The petitioner filed a Writ Appeal against the said order dated 27.11.2016, by way of appeal in W.A.No.67 of 2017. Pending the writ appeal, this Court directed the respondents therein to consider the petitioner's promotion on sympathetic ground. As per the direction of this Court, the TTDC acted upon and the petitioner was granted promotion as 'Store Keeper' on 27.03.2019 without prejudice to her right of appeal. Thereafter, the Writ Appeal was dismissed by this Court on 04.04.2019, with an observation that *"it is always open to the appellant to approach the appropriate forum, in case, she is still aggrieved"*. The petitioner superannuated on 31.05.2019 and she made a representation on 20.06.2019 to reconsider her promotion as 'Store Keeper' with retrospective effect from 21.01.1995 and for granting all other monetary benefits and the same was rejected by the third respondent, vide proceedings Memo No.2034/A2/2019, dated 18.11.2019, on the reason that, the petitioner had crossed the age of superannuation and it has no relevance to consider her case of promotion.



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4.The learned counsel for the third respondent filed a counter affidavit dated 15.12.2021, and paragraphs Nos.3, 4 & 9 of the counter are extracted hereunder:-

“3) I deny the averments and allegations contained in para 1 to 3 of the Affidavit filed in support of the Writ Petition as false and misleading. It is submitted that the petitioner was appointed as Telephone operator in Hotel Division in the Respondent Corporation on 22.04.1983 and her service was regulated on 01.03.1984 vide Proc.No.6485/A1/1984, dated 05.07.1984. In the year of 1986, the respondents had offered a promotion to the petitioner from telephone operator to the post of Store Keeper. But the petitioner herein had relinquished her right of promotion and enjoyed the benefits of living in her own native place and not been transferred to any other place on relinquishment of promotion.

4) I submit that in the year of 1988, Tamil Nadu Tourism Development Service Regulations, 1988 were introduced and came into force with effect from 10.11.1988. As per the Service Regulations 1988, the qualification prescribed for



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Telephone Operator at Head Office is Graduate with pass in Telephone Operator Course, whereas qualification prescribed for Telephone Operator in Hotel Division is PUC/HSC with pass in Telephone Operator Course and the Scale of Pay of Telephone Operator at Head Office is Rs. 19500-62000 in the pay matrix level -8 and the Scale of Pay of Telephone Operator at Hotel Division is Rs. 15900 - 50400 in the pay matrix level -02.

9) I submit that challenging the above rejection order date 18.11.2019, the petitioner has filed the present writ petition, it is submitted that the promotion given to the petitioner is only on sympathy grounds as directed by the Hon'ble Division Bench of this Hon'ble Court, by relaxing the TTDC's Service Regulations, 1988. "

5.Today, the learned counsel has also produced the promotion order copy dated 06.07.1987, to the cadre of 'Store Keeper in Units', in which, the petitioner's name is found in Serial No.10, in the 'Abstract' of the TTDC Ltd., Madras. The learned counsel also drew the attention of this Court to a letter dated 06.07.1987, issued by the Corporation, in which, it is stated that the Manager, Hotel Tamilnadu, Coimbatore was directed to obtain an



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undertaking in writing from the petitioner/Selvi. Elizabeth Mary, Telephone Operator that she was not willing to join in the promoted post and that she does not require promotion at present and has also no objection to promote her juniors.

6.Heard the learned counsel appearing for the petitioner and the learned counsel appearing on behalf of the respondents and perused the material available on records.

7.In the instant case, the petitioner was promoted as Assistant, but was offered the post of 'Store Keeper' in the year 1987. However, she gave a written letter for refusal of promotion at the relevant point of time and the same is evident from the letter dated 06.07.1987 of the third respondent.

8.Even according to the petitioner, the petitioner was eligible for promotion in the year 1991 itself and worked as Telephone Operator without any promotion for 36 years. Therefore, she approached this Court in the year 2013 only, i.e., after 13 years, to promote the petitioner as Accounts Assistant with effect from 05.04.2008 with all other attendant and monetary benefits, but Writ Petition in W.P.No.20127 of 2013 was dismissed by this



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Court on 27.11.2016. Further, the petitioner approached this Court by way of the above said Writ Appeal in W.A.No.67 of 2017, and pending the appeal, this Court had directed the respondents to consider the petitioner's promotion and the petitioner was promoted as 'Store Keeper' on 28.03.2019 and joined as 'Store Keeper' on 08.04.2019, and thereafter, the Writ Appeal was disposed of by this Court on 04.04.2019 with an observation that *“it is always open to the appellant to approach the appropriate forum, in case, she is still aggrieved”*. Thereafter, the representation given by the petitioner in the year 2009 for promotion, was rejected in the year 19.07.2011 by the third respondent. The petitioner was initially offered the post of 'Store Keeper' in the year 1987, but, she did not take any steps till 2009, i.e., for merely 22 years, seeking promotion as 'Store Keeper'. This apart, she approached this Court only in the year 2013 that too after 26 years, seeking promotion which was also dismissed by this Court. In view of the direction in the Writ Appeal No.67 of 2017, the petitioner was promoted as 'Store Keeper' on 28.03.2019 and joined duty on 08.04.2019.

9.From the above facts, it is crystal clear and evident that the petitioner had not requested for promotion as 'Store Keeper'. Though the petitioner was offered the post of 'Store Keeper' in the year 1987, she could



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not take up the post due to personal reasons and such refusal according to the petitioner, is valid only for three years, which ended in the year 1990. But, the petitioner has taken steps to give representation only in the year 2019 i.e., after 22 years of delay and approached this Court only in the year 2013 by way of filing Writ Petition No.20127 of 2013, that too, after the delay of 26 years.

10. There is inordinate delay on the part of the petitioner in approaching the authorities for his promotion as 'Store Keeper' and on this ground alone he is not entitled for the relief sought for in the Writ Petition. Now the petitioner has superannuated on 31.05.2019 and her representation dated 20.06.2019, for promotion as 'Store Keeper' with retrospective effect from 21.01.1995 has been rightly rejected by the third respondent/ Corporation, vide proceedings in Memo No.2034/A2/2019, dated 18.11.2019 and the same does not warrant any interference by this Court.

11. In view of the above factual matrix of the case, this Court is not inclined to interfere with the order passed by the third respondent, vide proceedings in Memo No.2034/A2/2019, dated 18.11.2019 and the same is hereby confirmed.



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12.In the result, the Writ Petition stands dismissed. No costs.

Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No
Speaking / Non-Speaking order
Neutral Citation : Yes/No

klt

To:

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No.2, Walajah Road,
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J.SATHYA NARAYANA PRASAD,J.

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