



W.P.No.12868 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12868 of 2005 and
WPMP.No.14081 of 2005

T.Carounagaran

... Petitioner

Vs.

The Pondicherry Tourism Development Corporation Ltd.,
Rep. by its Managing Director,
No.40, Goubert Avenue,
Pondicherry 605 001

... Respondent

PRAYER : Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to Order No.100/PT & TDC/Admn/99/40 dated 11.12.2000 read with the Order No.28/PT & TDC/Admn/2002/480 dated 20.06.2003 issued by the respondent and quash the same to the extent they designate the petitioner as Assistant Cook/Commis Gr.II and consequently direct the respondent to appoint the petitioner as Cook with effect from 1.1.2000 when all those recruited along with him in April 1993 was regularly absorbed in the respective posts of initial appointment in 1993 with all consequential seniority, arrears and all other benefits.



W.P.No.12868 of 2005

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For Petitioner : Mr.K.M.Ramesh,
Senior Counsel
for Mr.S.Apunu

For Respondent : Mr.M.Nirmal Kumar,
Government Advocate(Puducherry)

ORDER

This writ petition has been filed challenging the order dated 11.12.2000 and order dated 20.06.2003 issued by the respondent insofar as regularising the petitioner with effect from 01.01.2000.

2. The petitioner is holding a Craft Certificate in Food Production and he completed the said course in the year 1992. He worked in a Five Star Hotel and he had completed Industrial Training for a period of six months in the year 1992. In the campus selection, the petitioner was shortlisted by the respondent and called upon to attend the interview for being considered for employment. The petitioner attended the interview on 06.05.1993 and he was selected to the post of Cook in Seagulls. Immediately, the petitioner had joined as Cook on consolidated salary. By order dated 13.01.2000, the respondent regularised the service



W.P.No.12868 of 2005

of the petitioner in the temporary post of Assistant Cook in the time scale of Rs.2550-3200. Therefore, the petitioner had sent representation to the respondent seeking to regularise him as Cook in the pay scale of Rs.3050-4590. Thereafter, he had noticed that five persons, who were similarly appointed as Cook on consolidated wages, subsequently absorbed in the same post of Cook. By order dated 11.12.2000, the petitioner was regularised in the post of Assistant Cook with effect from 01.01.2000. Thereafter, the respondent passed an order dated 01.11.2002, thereby persons in the scale of pay of Rs.800-1150 were designated as Assistant Cook Grade-I and those in the scale of Rs.750-940 were designated as Assistant Cook Grade II. By the 72nd Board Meeting, the Recruitment Rules were framed and rationalisation and re-designation of various posts was sought to be implemented in the respondent Corporation which was held on 20.06.2003.

3. The learned Senior Counsel appearing for the petitioner submitted that though the petitioner had fully satisfied the essential qualifications prescribed in the Recruitment Rules for the post of Cook,



W.P.No.12868 of 2005

he was appointed, that too temporarily only to the post of Assistant Cook and thereafter his service was regularised in the post of Assistant Cook with effect from 01.01.2000. By subsequent order dated 20.06.2003 in which rationalisation and re-designation of posts were done. 31 persons were placed in the post of Assistant Cook Grade-I / Commis Grade-II. The first 8 persons in this batch do not have even basic qualification of SSLC or Craft Certificate. However, they were placed above the petitioner and they were recruited to the post of Assistant Cook. However, the petitioner's name is found at the 10th place. He further submitted that the petitioner was recruited as Cook in the year 1993 and when the petitioner was recruited as per the Recruitment Rules, the respondent cannot later re-designate the petitioner as regular Assistant Cook, that too in the scale pay of 2550-3200.

4. The respondent filed counter and learned Government Advocate(Puducherry) appearing for the respondent submitted that the post of Receptionist and Waiter belong to 'C' and 'D' category respectively and the entry grades for the said posts are the same.



W.P.No.12868 of 2005

Therefore, the persons were regularised in the same category with the same designation. Whereas, for the person who was regularised as Captain, the post belongs to 'C' category and there was vacancy at the time of his regularisation for the Captain post and he was considered for the same post on his performance as there was a vacancy for the said post at the time of his regularisation. Though the petitioner was initially appointed as Cook, he was on contractual basis. Appointment will neither confer any regular employment in the Corporation nor will have any right for the same. He further submitted that there were 9 others along with the petitioners who have been appointed as Cook on contractual basis and subsequently, they were regularised as only Assistant Cook, now Commis Grade-III on the same pay scale. On the date of regularisation of the petitioner, there was no vacancy in the post of Cook under Grade 'C'. The petitioner was regularised based on the Recruitment Committee Meeting as Assistant Cook vide letter dated 11.12.2000. Subsequently, management decided to reorganise the cadre and upon which the petitioner and others were re-designated as Commis Grade-III to which effect, the final seniority list was issued by the memo



W.P.No.12868 of 2005

dated 05.06.2005. It was duly accepted by the petitioner and he had joined on 18.10.2005 as Commis Grade-II and subsequently by order dated 12.03.2010, he was promoted to the post of Commis Grade-I. Therefore, the case of the petitioner cannot be considered and he prayed for dismissal of the writ petition.

5. Heard, the learned counsel appearing on either side.

6. Admittedly, the petitioner was initially appointed as Cook by the respondent on consolidated wages. By order dated 13.01.2000, the petitioner was appointed as Assistant Cook on temporary basis in the time scale of R.2550-3200. By order dated 11.12.2000, the petitioner was regularised in the post of Assistant Cook with effect from 01.01.2000. The persons who were appointed on consolidate salary as Cook in pursuant to notification calling for applications in the year 1992 were absorbed and regularised as Cook within six months from the date of the appointment. The petitioner was appointed as Cook and he was regularised in the post of Assistant Cook with effect from 01.01.2000.



W.P.No.12868 of 2005

Admittedly, the petitioner was duly sponsored by the employment exchange and he had possessed requisite educational qualification for the the post of Cook as follows:

7	Educational and other qualifications required for direct recruits	a.	Essential
		i)	A Craft Certificate Course in FP awarded by NCHMCT, New Delhi or DTE of the State and
		ii)	5 years of experience in FP in not less than 3 star category Hotel
		b.	Desirable
			3 year Diploma in HM&CE awarded by NCHMCT, New Delhi (or) DTE of the State

7. The other persons who were recruited as stated in the counter were not recruited through employment exchange. They also did not possess the required educational qualifications. They were appointed in the post of Assistant Cook Grade-III. The respondent failed to justify its action that the petitioner was appointed in the post of Assistant Cook.

8. In view of the above, the impugned orders are liable to be quashed. Accordingly, the order of regularisation to the post of Assistant Cook dated 11.12.2000 and the consequential order dated 20.06.2003 to the extent the respondent regularised the petitioner to the post of



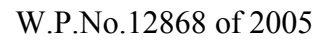
W.P.No.12868 of 2005

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Assistant Cook / Commis Grade-II are hereby quashed and this writ petition is allowed. The respondent is directed to re-designate the petitioner as Cook / Commis Grade-I with effect from 01.01.2000 with all consequential seniority, arrears and all other benefits. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

14.09.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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1. Managing Director,
The Pondicherry Tourism Development Corporation Ltd.,
No.40, Goubert Avenue,
Pondicherry 605 001
2. The Government Advocate,
High Court, Madras.



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W.P.No.12868 of 2005

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W.P.No.12868 of 2005

14.09.2023