



WEB COPY

W.P.No.5636 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.08.2023

Coram:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.5636 of 2018

Manivashaghan

... Petitioner

Vs.

1 The Chief Executive Officer
T.N.Khadi & Village Industries Board
Kuralagam Chennai-108

2 The Secretary to Government
Handloom Khadi Kraft Textiles & Khadi
Department Fort St. George Chennai-9

.... Respondents

Prayer: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records in connection with the impugned orders passed by 1st Respondent in Na.Ka. No.21348/ EI(1)/ 2014 dt.12.05.2017 and confirmed by the 2nd Respondent in Letter No.5509/F1/ 2017-2 dated 09.10.2017 quash the same and direct the respondents to consider the claim of the petitioner for promotion as Deputy Director of Khadi & Village Industries Board by including his name in the panel of the year 2000 and promote him as Deputy Director and grant him all consequential service and monetary benefits at par with his juniors.

For Petitioner : Mr.K.Venkatramani, Senior Counsel
for Mr.M.Muthappan



For Respondents : Mr.S.K.Bose – R1
Mr.T.K.Saravanan -R2

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ORDER

This Writ Petition has been filed in the nature of Writ of Certiorarified Mandamus seeking records of the first Respondent, Chief Executive Officer, Tamil Nadu Khadi and Village Industries Board in Na.Ka. No.21348/ EI(1)/ 2014 dated 12.05.2017 and confirmed by the second Respondent, the Secretary to Government, Handloom Khadi Kraft Textiles & Khadi Department in Letter No.5509/F1/ 2017-2 dated 09.10.2017 and quash both the orders and direct the respondents to consider the claim of the petitioner for promotion as Deputy Director of Khadi & Village Industries Board by including his name in the panel of the year 2000 and promote him as Deputy Director and grant him all consequential service and monetary benefits at par with his juniors.

2. The petitioner had originally joined the Khadi Department as Lab Assistant in the year 1987. He got successive promotions and finally was promoted as Assistant Director in the year 1994. He was eligible to be promoted as Deputy Director in the panel for the year 2000. Two of his juniors, viz., V.Mariappan and P.Kuppusamy, had been considered for promotion to the post of Deputy Director in the year 2000 and were so promoted. The reason why the petitioner was not promoted was that charges



under Section 34(b) of the Khadi and Village Industries Board's Service Regulations, which invited major penalty to be imposed, were pending against the petitioner.

3. Naturally, during the pendency of such disciplinary proceedings, the petitioner could not have been considered for promotion in the year 2000. It is quite natural that the juniors were so promoted. Enquiry proceedings were completed resulting in the Enquiry Officer returning a finding that the charges have been established. The petitioner then was imposed with appropriate punishment which he questioned by filing an appeal before the second respondent.

4. The second respondent by order dated 29.05.2003 had set aside the punishment imposed against the petitioner and exonerated him of all charges. It was therefore urged by the learned Senior Counsel for the petitioner that since the petitioner had been exonerated, he should be considered for promotion as Deputy Director in the year 2000 when the two juniors, namely, V.Mariappan and P.Kuppusamy were promoted.

5. This claim of the petitioner had been rejected by the respondents on the ground that between the years 1997 and 2013, no panel was drawn, but the two juniors, viz., V.Mariappan and P.Kuppusamy were promoted only temporarily to the post of Deputy Director. It was therefore contended that the



petitioner cannot seek as a matter of right promotion from the year 2000 on par with his juniors.

6. This stand taken by the respondents had been very seriously assailed by the learned Senior Counsel, who claimed that if there were no panel, then even the two juniors, viz., V.Mariappan and P.Kuppusamy should not have been considered for promotion in the year 2000.

7. No further ground had been raised to negate the right of the petitioner for promotion in the year 2000 as Deputy Director. In the counter affidavit filed, the same stand had been taken and it had been urged that though a panel had been prepared, it was not approved by the Government. Thereafter, it had also been stated that charges had been pending under Section 34(b) of the Khadi and Village Industries Board's Service Regulations against the petitioner at the time of forwarding the panel to the Government and therefore the name of the petitioner was not included.

8. It was also contended that the two juniors, viz., V.Mariappan and P.Kuppusamy received salary only as Assistant Directors and not in the promoted post as Deputy Directors. Learned Senior Counsel would submit that the said statement is not correct. He drew my attention in this regard to the order dated 12.05.2017 sanctioning payment of salary to the two individuals in the said promoted post as Deputy Director as payable for



Deputy Directors.

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9. Therefore, I find that no plausible reason has been advanced by the respondents to deny promotion to the petitioner. Once the petitioner had been exonerated of all charges and the punishment imposed also had been set aside without any conditions, then naturally, the petitioner will have to fall back to his original position as if he had been in continuous service during the period when the enquiry proceedings were pending. If he were to be so considered as being in continuous service, then naturally in the year 2000, his name should have been proposed for being promoted as Deputy Director along with V.Mariappan and P.Kuppusamy.

10. As a matter of fact, there could be a denial if there were no sufficient number of posts available. Even then, the petitioner being senior and if his name had been proposed, either one of V.Mariappan and or P.Kuppusamy would not have been given the opportunity. Therefore, the petitioner will have to be restored to the original position, since he was exonerated from all the charges.

11. When a conscious decision was taken by the respondents, particularly the second respondent, who was the appellate authority to set aside the punishment imposed on the petitioner herein and to exonerate the petitioner from all charges that had been levelled against him, the impugned



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orders have to be set aside. The petitioner is held entitled for the benefit sought for in this Writ Petition.

12. The petitioner should be promoted as Deputy Director with effect from 20.10.2000, the date on which his juniors, viz., V.Mariappan and P.Kuppusamy were so promoted. Necessary proceedings in this regard and for payment of consequential monetary benefits should be issued within a period of sixteen (16) weeks from the date of receipt of a copy of this order.

13. This Writ Petition stands allowed. No costs.

sl

30.08.2023

Index: Yes/No

Speaking/Non-speaking order

Neutral citation: Yes/No

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