



W.P.No.13427 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

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P.Sundaram

...Petitioner

-Vs-

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary to Govt.,
Finance Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director,
Local Fund Audit Department,
Nandanam,
Chennai - 600 035.

...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 records pertaining to the order passed by the 2nd respondent in Na.Ka.No.Pa&Ni I (2)/21585/2017 dated 27.04.2018 and quash the same as illegal, incompetent and ultravires and consequently direct the 1st respondent to notionally promote the petitioner to the post of Joint Director, Local Fund Audit Department in the light of the proceedings of the Tamil Nadu Slum Clearance



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Board in Na.Ka.No.A1/5866/2018 dated 06.04.2018 and grant the petitioner's monetary benefits.

For Petitioner : Mr.R.Jayaprakash

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

ORDER

Heard Mr.R.Jayaprakash, learned counsel for the petitioner and Mr.M.Shahjahan, learned Special Government Pleader appearing for the respondents.

2. The petitioner herein seeks for notional promotion to the post of Joint Director in the Local Fund Audit Department.

3. According to the learned counsel for the petitioner, the Government, in G.O.(Ms).No.729, Finance Department, dated 19.09.2017, had notified 10 vacancies for the promotional post of Joint Director of Local Fund Audit Department. However, the second respondent, in the impugned order dated 27.04.2018, had claimed that there were only 8 vacancies, which is contrary to G.O.(Ms).No.729, dated 19.09.2017.



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4. By stating that one among the 10 vacancies, namely R.Pandian, was an Assistant Director, which is not a feeder category, the learned counsel for the petitioner submitted that if the name of R.Pandian is considered as not fit for promotion, his name would be arrayed at Serial No.10 in the promotional panel and therefore, he would be entitled for notional promotion.

5. Per contra, learned Special Government Pleader appearing for the respondents placed reliance on the averments in the counter affidavit and submitted that the order of the Government in G.O.(Ms).No.729 was only an estimate of vacancies for promotion to the post and on the crucial date, when the panel was prepared, there were only 8 vacancies and therefore, the petitioner's name was not fit to be included in that particular panel.

6. It is no doubt true that the Government in G.O.(Ms).No.729 had declared the number of vacancies for the promotional post of Joint Director as 10. Subsequently, when the promotional panel was prepared, the vacancies were arrayed only at 8. The clarification for reduction of the vacancies is made in the counter affidavit, wherein, it is stated that the vacancies as per



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G.O.(Ms).No.729 was only an estimate and not a final vacancy position. It is further stated that when G.O.Ms.No.148, Finance (LF) Department, dated 30.04.2018 was prepared, which is the panel for the post of Joint Director, it was found that the vacancies were only 8 in number, out of which, 7 persons were found to be fit for promotion.

7. It is not in dispute that the petitioner's seniority in the promotional panel was at Serial No.11. Even assuming that Serial No.1, namely R.Pandian, was not fit to be promoted, even then the petitioner's name cannot be considered in the promotional panel, in view of the non-availability of vacancies.

8. The petitioner has now retired from service on 30.04.2018. It is not the case of the petitioner that during his service, his juniors were promoted. While that being so, the petitioner herein cannot, as a matter of right, seek for promotion only on the ground that he was in the promotional panel, which proposition of law has been well settled in various decisions of the Hon'ble Supreme Court, as well as this Court.



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9. Thus, I do not find any merits in the present writ petition.

Accordingly, the writ petition stands dismissed. No costs.

05.01.2023

Index:Yes/No

Internet:Yes/No

Speaking order/Non-speaking order

hvk

To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Finance Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director,
Local Fund Audit Department,
Nandanam,
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