



W.P.No.5872 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	09.01.2023
PRONOUNCED ON	:	12 .04.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.No.5872 of 2014

K.Ganesan

... Petitioner

Vs.

The Principal Secretary to Government,
Micro Small and
Medium Enterprises (El(1) Department,
Fort St.George, Chennai 600 009

... respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records connected with the Government Letter issued in Letter No.318/El(1)/2014-3 dated 14.02.2014 passed by the respondent herein and quash the same and consequently direct the respondent to revise the seniority and promote the petitioner as Assistant Director from 2008 onwards.

For Petitioner : Mr.S.Ilamvaludhi

For R-2 : Mr.T.Arunkumar,
Additional Government Pleader



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ORDER

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Seeking to quash the order passed by the respondent in Letter No.318/El(1)/2014-3 dated 14.02.2014 and for a consequential direction to the respondent to revise the seniority and promote the petitioner as Assistant Director from 2008 onwards, the petitioner has preferred the present writ petition.

2. It is averred in the writ petition that the petitioner joined service in Micro Small and Medium Enterprises Department vide order issued by the Government in G.O.Ms.No.996, Personnel and Administrative Reforms (Placements) Department dated 22.09.1984 and he came to be regularised on 04.07.1986. It is submitted that persons working in other departments also were brought into the Micro Small and Medium Enterprises Department and that persons who were appointed through Service Commission and transferred to the respondent Department, were placed above the name of the petitioner.

3. The petitioner, thereafter made representations dated 13.09.2012 &



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19.04.2013 to the respondent requesting to fix his seniority at appropriate place. Since the same was not considered by the respondent, he had filed a writ petition in W.P.No.57 of 2014. This Court issued a direction to the respondent vide order dated 03.01.2014 to consider the petitioner's representation dated 19.04.2013 and to pass orders on merits.

4. Pursuant to the order of this Court dated 03.01.2014, the respondent upon considering the representation of the petitioner passed the impugned order dated 14.02.2014, rejecting the request of the petitioner for fixation of seniority above Tmt.M.Punithavathy and Thiru.N.Lakshminarayanan holding that they became senior than the petitioner based on the criterion in G.O.(D) No.81, MSME (E11-1) Department dated 15.06.2012, taking the month and year of conduct of TNPSC for fixing seniority. Aggrieved against the same, the petitioner has filed the present writ petition.

5. On the other hand, Mr.T.Arunkumar, learned Additional Government Pleader appearing on behalf of the respondent would submit that the impugned order dated 14.02.2014, has been passed based on the G.Os in



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force and therefore, the challenge made by the petitioner to the said order and the relief sought in this writ petition do not merit acceptance. Moreover, the petitioner was appointed on temporary basis through Employment Exchange under rule 10(1)(i) of the General Rules and the individuals mentioned by the petitioner were appointed through Tamil nadu Public Service Commission in regular capacity.

6. Heard the learned counsel for the petitioner as well as for the respondent and perused the materials placed before this Court.

7. This Court, after carefully examining the various Government orders passed and a perusal of the impugned order is of the view that when the provisions of the Rule and the appointment orders in no uncertain terms state that the appointment is purely temporary in order to tide over an emergent situation, such appointees under Rule 10(a)(i) of the Rules can be granted no relaxation of the Rules and this would be against the principle of fair play, justice and equal opportunity. Once recruitment is regulated by statutory rules, recruitment must be in accordance with the rules and any appointment



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dehors the rules such appointees cannot claim any preferential treatment.

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8. The State being the model employer is required to act fairly giving due regard to the rules framed by it and it cannot relax the Rules. Therefore, this court is not inclined to grant any relief to the petitioner. Finding no merits in the case, this Writ Petition stands dismissed. No costs.

12 .04.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes /No

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To:

The Principal Secretary to Government,
Micro Small and
Medium Enterprises (El(1) Department,
Fort St.George, Chennai 600 009



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J.NISHA BANU, J.,

sts

Order made in
W.P.No.5872 of 2014

Dated:
12.04.2023