



W.P.No.17180 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:23.06.2023

Delivered on: 14.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.17180 of 2018

V.Selvaraju

...Petitioner

Vs

1.The Chairman
Chennai Port Trust
Chennai

2.The Deputy Chairman
Chennai Port Trust
Chennai

3.The Financial Adviser and
Chief Accounts Officer
(FA&CAO)
Finance Department
Port Trust
Chennai-600 001

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider the petitioner's claim and promote him as Accounts Officer, Grade II, notionally pursuant to the panel dated 05.04.2018 and grant all consequential



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monetary benefits.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.P.Ulaganathan

ORDER

The petitioner has filed the present Writ Petition seeking issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's claim and promote him as a Accounts Officer Grade II notionally pursuant to the panel dated 05.04.2018 and grant all consequential monetary benefits.

2. The case of the petitioner is that he was appointed as a clerk in the Chennai Port Trust and thereafter he was promoted as Junior Assistant, Senior Assistant, Assistant Superintendent and then to the post of Office Superintendent. According to the petitioner, his next avenue of promotion was to the post of Accounts Officer Grade II. In October 2017, two vacancies arose and the 3rd respondent prepared a panel for promotion on 05.04.2018. The petitioner was placed at No.4. The 1st and 3rd persons were suffering



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currency of punishment and therefore according to the petitioner, he ought to have been considered. The petitioner's representation is being delayed for the reasons not known to him and the petitioner has lost his chance of promotion before superannuation. Therefore, the petitioner has filed the Writ Petition seeking notional promotion and consequential service benefits.

3. The respondents have filed an additional affidavit stating that two officers against whom the petitioner alleges that there was currency of punishment and they were ineligible for promotion was misconceived for the reason that in respect of one officer, a minor penalty of reduction to a lower stage in scale of pay for period of two years without cumulative effect was passed on 11.08.2016. The said penalty was undergone and came to an end on 10.08.2018. Thereafter, the Vigilance has cleared the said officer before being considered for promotion ahead of the petitioner. It is also seen from the earlier counter affidavit filed by the respondents that the respondents in pursuance of the order of this Court in W.P.No.26208 of 2016 dated 02.11.2017, had issued a revised combined seniority list of each department



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as on 25.05.2001 i.e., the date of merger. The name of the petitioner was shown in Sl.No.184 and further according to the respondents revised panel was prepared on 06.12.2018 i.e., after the retirement of the petitioner on 31.05.2018 and only thereafter the Departmental Promotion Committee in and by its decision dated 11.01.2019 promoted P.Thangamani and Peri L.Dhanasekaran who were at Sl.Nos. 1 and 2 of the panel and Sl.Nos.139 and 176 of the combined seniority list respectively. One Manjula had made representations against irregularities in promotion and the said representation was also duly replied and rejected by the respondents vide their communication dated 25.08.2018.

4. Heard Mr.M.Muthappan, learned counsel for the petitioner and Mr.P.Ulaganathan, learned counsel for the respondents.

5. Admittedly, the petitioner retired on his superannuation on 31.05.2018. It is seen that two persons viz.. Thangamani and Peri L.Dhansekarar were placed ahead of the petitioner not only in the panel but



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also in the combined seniority and therefore they were promoted as against the available two vacancies to the post of Accounts Officer Grade II. The contention of the petitioner that persons above the petitioner were serving currency of punishment is also found to be incorrect because on the effective date of consideration, the concerned person has served the punishment and therefore there is no currency of punishment. One another aspect that needs to be considered is the fact that the petitioner has not challenged the promotion given to Thangamani and Peri L.Dhanasekarn. Unless the promotion given to the two persons is set aside, the question of the petitioner claiming notional or actual promotion does not arise. Moreover, the petitioner has not even chosen to implead the said Thangamani and Peri L Dhanasekaran as party respondents. Any relief given to the petitioner would directly prejudice the interests of the said two persons who have been promoted ahead of the petitioner. The Writ Petition, therefore in their absence cannot be entertained.



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6. For all the above reasons, the relief of Mandamus simplicitor cannot be granted as prayed for by the petitioner. Writ Petition is dismissed. No costs.

14.07.2023.

Internet:Yes
Index:Yes/No
Neutral Citation:Yes/No
kpr

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P.B.BALAJI, J.,
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Pre-delivery order in
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