



W.P.No.23194 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.23194 of 2019 &
W.M.P.No.22889 of 2019

M.Ashok Kumar

... Petitioner

Vs.

1. The Principal Secretary / Commissioner,
Archives & Historical Research,
50-51, Gandhi Irwin Road,
Egmore, Chennai – 600 008

2. The Assistant Commissioner (Personnel)
Archives & Historical Research
50-51, Gandhi Irwin Road,
Egmore, Chennai – 600 008

...Respondents

Writ Petition has been filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 1st respondent in his Memo No.5396/A2/2018 dated 26.04.2019 and quash the same and direct the respondents to promote the petitioner as Research Officer or Superintendent (Grade-A) or Assistant Editor from the date on which the petitioner's juniors were promoted and confer all the consequential benefits.



WEB COPY



W.P.No.23194 of 2019

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.V.Arun
Additional Advocate General
Assisted by
Mr.T.M.Rajangam for R1 and R2
Government Advocate

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 1st respondent in his Memo No.5396/A2/2018 dated 26.04.2019 and quash the same and direct the respondents to promote the petitioner as Research Officer or Superintendent (Grade-A) or Assistant Editor from the date on which the petitioner's juniors were promoted and confer all the consequential benefits.

2. According to the petitioner, he joined as Junior Assistant on 19.01.1995 through Tamilnadu Public Service Commission in the respondent Department at Madurai and thereafter, he was transfered to Madurai. Further, subsequent to several promotions, the petitioner had worked as Research Assistant and he is the junior most person. The petitioner also being one of the office bearers of staff association placed



W.P.No.23194 of 2019

three demands and since no steps were taken , the matter was brought to the notice of the Association and the Association ventilated their grievances.

In order to wreck vengeance, the impugned order of transfer dated 28.09.2013 transferring the petitioner from chennai to cuddalore was passed. Challenging the same, the petitioner has earlier filed W.P.No.27803 of 2013 and by an order dated 11.10.2013, the order of transfer was stayed.

3. It is the further case of the petitioner that though several representations dated 22.10.2013, 29.10.2013 and 30.10.2013 were made to the respondent, instead of permitting the petitioner to join duty, the respondents issued proceedings dated 30.10.2013 informing the petitioner that opinion has been sought for from the Government pleader and on receipt of his opinion, necessary reply will be furnished. Thereafter, the respondents have passed the order of reversion dated 31.10.2013 reverting the petitioner from the post of Research Assistant to the post of Superintendent (Grade-B) on the ground that the post of Research Assistant, which was sanctioned has been lapsed on 31.10.2013.

4. The petitioner, earlier filed Writ Petition no.30698 of 2013 on the



W.P.No.23194 of 2019

ground that the post is temporary and the Government periodically continue the sanction of the Research Assistant. Since the petitioner was transferred to Cuddalore, the petitioner represented personal grounds and stated that he is not in a position to join at Cuddalore. However, the respondents compelled the petitioner to give relinquishment letter and on such letter, the petitioner was retained at Chennai as Superintendent (Grade-B) and after three years, the respondents promoted and posted the petitioner as Research Assistant on 20.07.2018 at Chennai. The petitioner is entitled to higher post, i.e., Research Officer, Superintendent (Grade A) and Assistant Editor, however, the petitioner was denied stating that he had given relinquishment letter and the respondents had given promotion to his juniors. Hence this petition seeking to quash the impugned order.

5. The learned Additional Advocate General appearing on behalf of the respondents submitted the petitioner was not compelled to give request for relinquishment of rights. In fact, the then Commissioner of this office tried his level best to avoid this relinquishment of rights process. As per the Rule, if any individual has given the relinquishment of rights request for a post, the individual could not be considered for promotion for a period of



W.P.No.23194 of 2019

three years. In that context, the petitioner's request for relinquishment of rights period to be counted to seniority and giving notional promotion was not considered and the same was done as per Rules.

6. Heard the learned counsels on either side and perused the documents placed on record.

7. On going through the documents placed on record, it is seen that when the impugned order of transfer dated 28.09.2013 transferring the petitioner from chennai to cuddalore was stayed by an order dated 11.10.2013 in W.P.No.27803 of 2013, instead of permitting the petitioner to join duty, the respondents have passed the order of reversion dated 31.10.2013 reverting the petitioner from the post of Research Assistant to the post of Superintendent (Grade-B) on the ground that the post of Research Assistant, which was sanctioned has been lapsed on 31.10.2013. Though it is contended on the side of the petitioner that the post is temporary and the Government periodically continue the sanction of the Research Assistant.

8. It is relevant to note that on account of the family situation, the



W.P.No.23194 of 2019

petitioner had given a letter / application for relinquishment of Rights on 05.11.2014 in file no.4331/A2/2014, of course temporarily, thereby the petitioner was posted as Superintendent (Grade B) at Chennai and after three years, when the petitioner's juniors are promoted to the higher post, viz., i.e., Research Officer, Superintendent (Grade-A) and Assistant Editor, however, the petitioner's further promotion to the higher post was refused by the respondents.

9. Considering the present facts and circumstances of the case, the petitioner is directed to submit a fresh representation to the respondents, narrating all the facts within a period of three weeks from the date of receipt of copy of the order and on such representation being made, the respondents are directed to pass a reasoned order after adhering to the principles of natural justice within a period of eight weeks from the date of receipt of copy of this order.

With the above direction, the present Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

21.12.2023



W.P.No.23194 of 2019

Index : Yes/No
Internet : Yes/No
Speaking order / non speaking order
ssd

To

1. The Principal Secretary / Commissioner,
Archives & Historical Research,
50-51, Gandhi Irwin Road,
Egmore, Chennai – 600 008
2. The Assistant Commissioner (Personnel)
Archives & Historical Research
50-51, Gandhi Irwin Road,
Egmore, Chennai – 600 008



WEB COPY



W.P.No.23194 of 2019

V.BHAVANI SUBBAROYAN, J.,

ssd

W.P.No.23194 of 2019

21.12.2023