



WEB COPY



W.P.No.13361 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.13361 of 2010

and

M.P.No.1 of 2015

R.Bhaskaran

...Petitioner

Vs

1.Tamil Nadu Industrial Investment,
Corporation Limited represented by
its Chairman and Managing Director,
No.692, Anna Salai, Nandanam,
Chennai – 600 035.

2.Government of Tamil Nadu,
represented by its Secretary, Industries Department,
Fort St.George, Chennai – 600 009.

3.Tamil Nadu Handloom Development,
Corporation Limited represented by
Its Managing Director,
Kuralagam, Chennai – 600 108.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in proceedings HRM/A1/2008 dated 06.07.2009 on the file of the 1st



W.P.No.13361 of 2010

respondent herein and quash the same, insofar as it denies the petitioner various reliefs and benefits and direct the 1st respondent to give promotion to the petitioner from the post of Assistant General Manager to the post of Deputy General Manager in the 1st respondent Corporation with effect from the date of promotion of his juniors namely 08.09.2006 and direct the 1st respondent to revise and fix the salary of the petitioner in the cadre of Deputy General Manager and pay arrears of salary and allowances including the other service benefits under the impugned order to the petitioner.

For Petitioner : Mr.S.Sadashram

For Respondents : Mr.K.V.Sundarajan (For R1)
Mr.Tippusulthan,
Government Advocate (For R2)
No appearance (For R3)

ORDER

The Writ Petition is filed for quashing the proceedings HRM/A1/2008 dated 06.07.2009 on the file of the 1st respondent herein and insofar as it denies the petitioner various reliefs and benefits and for directing the 1st respondent to give promotion to the petitioner from the post of Assistant General Manager to the post of Deputy General Manager in the 1st respondent Corporation with effect from the date of



W.P.No.13361 of 2010

promotion of his juniors namely 08.09.2006 and direct the 1st respondent to revise and fix the salary of the petitioner in the cadre of Deputy General Manager and pay arrears of salary and allowances including the other service benefits under the impugned order to the petitioner.

2.Learned counsel for the petitioner submitted that petitioner was employed as Manager (Finance) and Company Secretary in Tamil Nadu Handloom Development Corporation Limited, Chennai 600 108. There was a selection process for the post of Company Secretary in the 1st respondent Corporation. Petitioner applied for the post. From several applications received from various Government of Tamilnadu undertakings, Selection Committee recommended petitioner for the post of 'Company Secretary' in 1st respondent Corporation on deputation basis. After receiving the order, petitioner joined as Assistant General Manager cum Company Secretary in 1st respondent Corporation. He made request for his absorption in the 1st respondent Corporation. 1st respondent was directed to take further action based on the resolution passed by the Board of the 1st respondent on 03.06.1998 for his permanent absorption in 1st respondent Corporation. By proceedings



W.P.No.13361 of 2010

WEB COPY

dated 25.05.1999, 1st respondent absorbed petitioner as Company Secretary-cum-Administrative Officer in the cadre of Deputy General Manager in the 1st respondent Corporation in the pay scale of Rs.4100-5300 in the corresponding revised pay scale at Rs.14300-400-18300. His permanent absorption was notified by Circular dated 25.05.1999 and he joined duty on 26.05.1998 as Company Secretary-cum-Administrative Officer in the 1st respondent Corporation. His parent Department namely, Tamil Nadu Handloom Development Corporation Limited issued No objection Certificate for his permanent absorption in the 1st respondent Corporation in the cadre Deputy General Manger.

3.Tamil Nadu Industrial Investment Corporation Staff Welfare Association filed W.P.No.11069 of 1999, challenging the proceedings of the 1st respondent dated 28.05.1999. Subsequently, 2nd respondent by Communication dated 28.06.1999 passed another resolution dated 03.06.1998. 1st respondent issued a letter dated 29.10.1999, whereby permanent absorption in the post of Company Secretary-cum-Administrative Officer in the cadre of Deputy General Manager was cancelled. Challenging this cancellation, petitioner filed W.P.No.18203 of



W.P.No.13361 of 2010

WEB COPY

1999 and he also filed W.P.No.2806 of 2000 challenging the proceedings dated 22.09.1999. All the Writ Petitions were disposed by a common order dated 09.03.2001, whereby the order passed by 1st respondent dated 25.05.1999 by which he was permanently absorbed in 1st respondent Corporation was upheld and the Writ Petitions filed by the individual and Staff Welfare Association were dismissed. However, his permanent absorption was treated only in the cadre of Assistant General Manger instead of Deputy General Manager, and consequently, proceedings of 2nd respondent were quashed as invalid and inoperative.

4. Aggrieved against the orders passed in these Writ Petitions, Appeals were preferred before the Division Bench of this Court. Pending Appeal, petitioner requested 1st respondent to consider him to the post of Deputy General Manager in the existing vacancy stating that, he possesses all the necessary and requisite qualification for being promoted to the post of Deputy General Manager. Two of his juniors were included in the panel of Assistant General Manager for promotion to Deputy General Manager on 08.09.2006. Referring this, he made a representation dated 11.09.2006 to the 1st respondent requesting the 1st respondent to



W.P.No.13361 of 2010

revise the panel and place his name in the top of the panel of promotion to the post of Deputy General Manager. He was informed by the Letter dated 22.09.2006 that since W.A.No.822 and 823 of 2001 are pending and absorption in the post of Deputy General Manager-cum-Assistant General Manager in the 1st respondent has been stayed, he was informed that, it has been decided to await for the final orders in the Writ Appeals. Another representation was made by petitioner on 25.04.2007 to reconsider the issue of promotion to the post of Deputy General Manager in the 1st respondent Corporation. The Writ Appeals were dismissed by the Hon'ble Division Bench of this Court, confirming the orders passed by the learned Single Judge in the Writ Petitions in W.P.Nos.11069, 18203 of 1999 and W.P.No.2806 of 2000.

5.It is further submitted by the learned counsel for the petitioner that when the 1st respondent permanently absorbed the petitioner in the cadre of Company Secretary-cum-Administrative Officer in the cadre of Deputy General Manager and that was confirmed with a modification that petitioner's absorption as Assistant General Manager-cum-Company Secretary in W.P.Nos.11069 and 18203 of 1999 and W.P.No.2806 of 2000



W.P.No.13361 of 2010

WEB COPY

and the Writ Appeals filed against the orders passed in these Writ Petitions were dismissed, petitioner is entitled to his promotion as Deputy General Manager-cum-Company Secretary with all the attendant benefits. He further submitted that petitioner got superannuation with effect from 31.07.2008 by proceedings of Managing Director of Tamil Nadu Handloom Development Corporation in HDC/Rc.849/2008-09/G1 dated 31.07.2008. Thus, he prays for promotion as Deputy General Manager-cum-Company Secretary with consequential monetary benefits.

6.In response to the submissions of the learned counsel for the petitioner, learned counsel appearing for the 1st respondent submitted that petitioner filed W.P.No.18203 of 1999, challenging the orders of the 1st respondent Corporation dated 29.10.1999 cancelling his earlier appointment. In another Writ Petition filed by the petitioner in W.P.No.2806 of 2006, he challenged the Letter dated 22.09.1999 issued by 2nd respondent namely the Government. This Court was pleased to stay the orders of 1st respondent Corporation, cancelling the order of appointment and directed the 1st respondent Corporation to allow petitioner to continue as Assistant General Manager cum Company



W.P.No.13361 of 2010

WEB COPY

Secretary till the pendency of the Writ Petition. Finally on 09.03.2001, this Court dismissed the Writ Petition filed by the TIIC Staff Welfare Association and allowed the Writ Petitions filed by the petitioner through a common order dated 09.03.2001. While allowing the Writ Petitions, this Court directed that there was no scope for interfering with the proceedings dated 25.05.1999 and proceedings dated 28.05.1999 ordering the absorption of the petitioner in the services of the 1st respondent Corporation as Company Secretary-cum-Administrative Officer, but in the cadre of Assistant General Manager instead of Deputy General Manager.

7.He further submitted that 1st respondent preferred Appeals in W.A.No.822 and 823 of 2001 against the orders passed in the aforesaid Writ Petitions. Finally, Appeals were dismissed on 20.08.2008. While Appeals were pending, petitioner applied for deputation in Chennai Metro Rail Limited. On obtaining No objection Letter by 3rd respondent, he was relieved on 29.02.2008 from the services of the 1st respondent to join at Chennai Metro Rail Limited. He joined duty on 03.03.2008. Petitioner had retired from services on 31.07.2008 on attaining the age of



W.P.No.13361 of 2010

superannuation. 1st respondent Corporation treated petitioner as permanent employee with effect from 26.05.1999 i.e., his date of joining duty in the services of 1st respondent Corporation. He was paid difference in salary and other benefits, as applicable to other employees of the 1st respondent Corporation, retiring on superannuation.

8.Learned counsel for the respondent also produced a list of Assistant General Managers, who were working as on 20.11.1999 with the details of date of promotion as Deputy General Manager.

9.Considered the rival submissions and perused the records.

10.From the narration of facts from the pleadings, records and submissions of the learned counsel for the parties, it is not in dispute that petitioner was appointed as Assistant General Manager-cum-Company Secretary in the 1st respondent Corporation on deputation basis by proceedings in Procds.No.Admn/A1/3694/97-1 dated 18.11.1997. Thereafter, by proceedings in Procds.No.Admn/A1/13252/98 dated 25.05.1999, he was permanently absorbed in the Corporation and



W.P.No.13361 of 2010

appointed as Company Secretary-cum-Administrative Officer in the cadre of Deputy General Manager. This was challenged by one A.Selvaraj and TIIC Staff Welfare Association in W.P.No.11069 of 1999. Petitioner has also filed W.P.No.18203 of 1999 and 2806 of 2000. All these Writ Petitions were taken for hearing and this Court in Para.no.51 of the order stated that,

“51. For all the above stated reasons, I hold that there is no scope for interfering with the proceedings of the second respondent dated 25.5.1999 as well as the one dated 28.5.1999 ordering absorption of the petitioner in the services of the second respondent Corporation as Company Secretary cum Administrative officer, but in the cadre of Assistant General Manager instead of Deputy General Manager. Having regard to my said conclusion, hold that the subsequent proceedings of the first respondent impugned in W.P.No. 18203 of 1999 and W.P. No.2806 of 2000 are liable to be set aside as invalid and inoperative.”

11.This order makes it clear that petitioner's absorption in the 1st respondent in the cadre of Assistant General Manager was confirmed. The Writ Appeals filed against the orders passed in Writ Petitions in



W.P.No.13361 of 2010

WEB COPY

W.A.No.822 and 823 of 2001 came to be dismissed. Thus, the position is that petitioner absorption in permanent capacity as Assistant General Manager cum Company Secretary in the 1st respondent Corporation with effect from 08.09.2006 was confirmed by this Court in Writ Petitions and Writ Appeals. Therefore, it is no doubt that petitioner is entitled for promotion on par with the persons, who were working along with him in the cadre of Assistant General Manager cum Company Secretary.

12.From the list furnished by the learned counsel for the respondent, it is seen that one Mr.T.Dhanasekaran (Sr.No.12) held the post of Assistant General Manager with effect from 24.05.1999 and he was promoted as Deputy General Manager on 08.09.2006. Petitioner's position of Assistant General Manager was confirmed with effect from 26.05.1999 and therefore, by order of seniority, the petitioner is entitled for being promoted as Deputy General Manager after the date of promotion of Mr.T.Dhanasekaran as Deputy General Manager on 08.09.2006. Petitioner has to be placed in between Serial No.12, Mr.T.Dhanasekaran and Serial No.14, Mr.T.N.Subramanian. Serial No.13 Mr.R.Kalyanasundaram, who held the position of Assistant General



W.P.No.13361 of 2010

WEB COPY

Manager, had not been promoted as Deputy General Manager for the reason that, he was compulsorily retired from service, consequent to the Disciplinary action taken against him. Thus, respondents are directed to notionally promote the petitioner as Deputy General Manager next to Mr.T.Dhanasekaran (Sr.No.12) on or after 08.09.2006 and pay him all the consequential monetary and terminal benefits.

13.With the above directions, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. Parties shall bear their own costs.

11.01.2024

Index:Yes/No

Speaking order/Non-speaking order

gd



W.P.No.13361 of 2010

WEB COPY

To

1. Tamil Nadu Industrial Investment,
Corporation Limited represented by
its Chairman and Managing Director,
No.692, Anna Salai, Nandanam,
Chennai – 600 035.
2. Government of Tamil Nadu,
represented by its Secretary, Industries Department,
Fort St.George, Chennai – 600 009.
3. Tamil Nadu Handloom Development,
Corporation Limited represented by
Its Managing Director,
Kuralagam, Chennai – 600 108.



WEB COPY



W.P.No.13361 of 2010

G.CHANDRASEKHARAN, J.

gd

W.P.No.13361 of 2010

11.01.2024