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W.P.No.10849 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.10849 of 2021
and W.M.P.No.17426 of 2021

S.Sankararaman

...

Petitioner

/vs/

1. The Additional Chief Secretary to Government,
Tourism, Culture and Religious Endowments Department,
Secretariat, Chennai – 600 009.

2. The State of Tamil Nadu,
Represented by its Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Chennai – 9.

3. The Commissioner of Arts & Culture,
Egmore,
Chennai – 600 008.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to give promotion to the petitioner as Assistant Director of Arts and Culture, any one of the 3 vacancy by following certain percentage of ratio to each category of the Rule issued vide G.O.Ms.No.337 of Tourism, Culture and Religious Endowments Department, dated 05.11.2004.



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For Petitioner ... Mr.P.Ganesan
For Respondents ... Mr. T.Rajendran
Additional Govt. Pleader

ORDER

The petitioner has filed this Writ Petition seeking to issue a writ of mandamus directing the respondents to give promotion to the petitioner as Assistant Director of Arts and Culture by following the Rules issued vide G.O.Ms.No.337 of Tourism, Culture and Religious Endowments Department, dated 05.11.2004.

2. The petitioner is presently working as Head Master in the District Government Music School, Art and Culture Campus, Thalavaipatti-Tirupathykavundanoor Salai, Ayyamperumampatti (Post), Salem. Even though the petitioner has rendered more than 23 years of service, he was not given with any promotion for the year 2007 as per the ad-hoc rules vide G.O.Ms.No.63 dated 13.04.2007. The eligibility criteria prescribed for appointing the Assistant Director for Regional Culture Centres has been given in G.O.Ms.No.337 dated 05.11.2004.



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3. It is claimed by the learned counsel for the petitioner that the petitioner is entitled to be appointed as Assistant Director for Regional Culture Centres and in fact he was even asked to apply for the said post but the petitioner was not considered for the appointment of Assistant Director and some other persons were appointed to the said post.

4. Mr.T.Rajendran, the learned Additional Government Pleader, submitted that the Feeder Cadre for the promotion to the post of 'Assistant Director' is 'Superintendent' but so far the petitioner is working as Head Master and hence he is not qualified to be promoted to the post of Assistant Director. He further submitted that all the vacancies have already been filled up and there is no vacancy available to accommodate the petitioner.

5. In the counter of the third respondent it is stated as under:

“ Rule 3: Appointment to the Post of (Assistant Director) shall be made as follows:

i) by recruitment by transfer from among the holders of the post of Superintendent of the Directorate of Art and Culture in Tamil Nadu Ministerial Service.

ii) by transfer from among the holders of the Post of Assistant Directors of the Departments in the Tamil Nadu General Service.



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iii) by transfer from among the holders of the post of Section Officers in any department of Secretariat other than law, Finance, and Planning Development and Special Initiatives in the Tamil Nadu General Service.

iv) by recruitment by transfer from any other class or category in any other service.”

6. The petitioner falls under the Category – iv. But it is the third respondent who had invited the willingness from the petitioner to be appointed to the post of Assistant Director by virtue of a letter dated 07.06.2018. After having sent a letter and obtained willingness from the petitioner, the application of the petitioner ought to have been considered on reasonable grounds. However, the learned Additional Government Pleader submitted that the petitioner was not eligible to the very post because the feeder cadre for the said post is 'Superintendent' and not the 'Head Master'.

7. The respondents were communicating with the petitioner and made him to believe that he had the required qualification for appointment to the post of 'Assistant Director' and in fact his willingness was also



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invited by letter dated 07.06.2018. While posting six additional Directors, the third respondent could have considered the willingness of the petitioner which was voluntarily invited by him.

8. It is learnt from the submission of the learned counsel for the petitioner that there is one vacancy available in the Coimbatore Centre and the petitioner can be considered for the same.

9. Since the petitioner has been rendering services for more than two decades without any promotion and he was also asked to apply to the post of 'Assistant Director', I feel his application can be considered with the existing rules and positive orders can be passed for promoting the petitioner to the post of 'Assistant Director'.

10. It is up to the petitioner to give a fresh representation to the third respondent and on receipt of the same, the third respondent shall consider the same and pass orders in accordance with the rules governing the subject and pass appropriate orders within a period of four weeks from the



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date of representation.

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11. With the above directions, this Writ Petition is disposed. No costs. Connected miscellaneous petition is closed.

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Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation: Yes / No

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R.N.MANJULA ,J.

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