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W.P.No.14378 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.07.2024

PRONOUNCED ON : 27.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.14378 of 2024
and W.M.P.Nos.15623 & 15624 of 2024

A.Karuppiah

... Petitioner

-Vs-

1. The Chariman

Kamarajar Port Limited,
3rd Floor, Jawahar Building,
No.17, Rajaji Salai,
Chennai.

2. The Managing Director,

Kamarajar Port Limited,
3rd Floor, Jawahar Building,
No.17, Rajaji Salai,
Chennai.

3. The General Manager (CS & BD),

Kamarajar Port Limited,
3rd Floor, Jawahar Building,
No.17, Rajaji Salai,
Chennai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent in its impugned advertisement no.Nil dated



W.P.No.14378 of 2024

24.04.2024 and quash the same and consequently direct the respondents to antedate the petitioner's promotion as Deputy General Manager from the respective dates of eligibility and thereafter consider and promote him as General Manager with due seniority and consequential benefits.

For Petitioner : Mr.V.Vijayashankar

For Respondents : Mr.Anand Gopalan
For M/s.Agam Legal Advocates

ORDER

This writ petition has been filed challenging the notification dated 24.04.2024 issued by the third respondent, thereby inviting applications to fill up the post of General Manager (Operations) in the respondents port.

2. The petitioner is qualified with graduation in Civil Engineering and post graduation in M.Tech., and he belongs to SC community. Initially the petitioner served in Inland Waterways Authority of India, for the period of five years and later he joined in the Chennai Port Trust as Assistant Engineer (Civil) on 20.01.1997. Thereafter, the petitioner was deputed as Assistant Manager (Civil) to Ennore Coal Port Project and later he was absorbed as Deputy Manager in the Ennore Port



W.P.No.14378 of 2024

Limited (later known as “Kamarajar Port Limited”). Thereafter, he was promoted to the post of Manager and also Senior Manager. Further, the petitioner was selected and appointed as Chief Manager (Traffic) on 23.02.2015 by the respondents.

3. As per the cluster policy followed by the respondents, the petitioner was eligible to be promoted as Deputy Manager, immediately after completion of five years as Chief Manager. However, he was not promoted to the said post. Thereafter, the promotion policy for executives was modified in the year 2019. However, the petitioner was promoted to the post of Deputy General Manager only in the month of September, 2023. He had joined in the said post and repeatedly submitted representation to grant retrospective promotion to the said post with effect from 2020 or from February, 2021. However, the said request was rejected and also confirmed in the appeal. While being so, the impugned notification was issued calling for direct recruitment to one post of General Manager (Operations) and the same has been earmarked for other backward classes. Hence, the petitioner filed the present writ petition.



W.P.No.14378 of 2024

4. The learned counsel appearing for the petitioner submitted that if the roster was correctly followed, the said post falls under unreserved quota and the petitioner would be entitled to apply for the said post. Therefore, the right of the petitioner was deprived. As per model roster, total strength of the cadre is less than 13 points, points 1, 2 and 3 are meant for unreserved candidates. Insofar as the post of General Manager is concerned only on two occasions, direct recruitment was resorted viz., in the year 2006 & 2010. Therefore, the third appointment in the direct recruitment quota, as per the roster, is meant for the unreserved candidates. However, it has been wrongly earmarked for OBC candidates. Therefore, though the petitioner is fully eligible to apply for the post, he could not be applied for the said post.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On perusal of the counter filed by the respondents and on the submission made by the learned counsel appearing for the respondents revealed that the respondents framed a recruitment and promotion policy on 12.05.2009 and it consisted of cluster arrangement,



W.P.No.14378 of 2024

wherein in the event of a position falling vacant within the cluster, the senior most person will be considered for promotion, subject to the candidate having completed the residential period and having obtained the desired marks. The clusters were as follow :-

Cluster – I includes the following posts :

- Junior Executive (E0)
- Executive (E1)
- Assistant Manager (E2)

Cluster – II includes the following posts :

- Deputy Manager (E3)
- Manager (E4)
- Senior Manager (E5)

Cluster – III includes the following posts :-

- Chief Manager (E6)
- Deputy General Manager (E7)

7. While being so, in the month of March 2018, the respondents decided to constitute committee to frame new promotion policy. In fact, the petitioner was the member of the committee. The new policy was adopted and given effect from 29.03.2019 and all the promotions were made after selecting the Department Promotion Committee. Therefore, in the year 2018, there was no Departmental



W.P.No.14378 of 2024

Promotion Committee and based on the appraisals in the relevant year promotion was granted. As per the appraisal marks of the petitioner, he was not promoted in the year 2018 as Deputy General Manager.

8. As far as the roster for the post of General Manager (Operations) till date, the position of the General Manager has been filled through direct recruitment, or absorption and promotion against the regular appointment. The details of the persons are given below as per the reservation of roster:-

Cycle No.	UR or reserved for SCs/STs/OBCs	Name	Date of appointment	Remarks
1.	UR	Capt. Prasad Rebala	30.11.2006	Resigned on 30.11.2009
2.	UR	Sanjay Kumar	11.06.2008	Superannuated on 31.07.2023
3.	UR	Capt. A.K.Gupta	31.12.2010	Superannuated on 31.01.2021
4.	OBC			GM(O) Advertised on 22.02.2023 and again now 24.04.2024
5.	UR	Kavita Satvi	01.08.2023	GM(F)-SC on Merit
6.	UR	Yatin Patel	07.08.2023	GM (CS & BD)

9. The second appointee one Sanjay Kumar was initially



W.P.No.14378 of 2024

deputed to the respondents on 04.05.2005 and thereafter he was absorbed permanently against the regular appointment, from 11.06.2008.

Therefore, the permanent absorption against the regular vacancy as per the reservation roster for appointment of General Manager, second term was marked under unreserved category. Thereafter, third appointment was also made under the turn of unreserved category. The present notification was issued as fourth appointment to the post of General Manager and it rightly falls under the turn of OBC category.

10. In fact, as per the notification dated 22.02.2023, inviting applications for recruitment to the post of General Manager (Operations) under OBC category. However, there was no application and as such it was not filled up. It has been carried forward and once again by the present notification dated 24.04.2024, invited application to fill up the said post. In fact, the petitioner did not apply as per the first notification, since the post to be filled up under OBC quota. Now, the petitioner challenged the notification on the ground that it is an appointment on third round and falls under the unreserved quota. It cannot be accepted as stated supra. Therefore, this Court finds no infirmity or illegality in the notification issued by the third respondent and the writ petition is devoid



W.P.No.14378 of 2024

of merits and liable to be dismissed.

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11. Accordingly, the Writ Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

27.08.2024

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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W.P.No.14378 of 2024

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