



WEB COPY



W.P. Nos.11498 of 2017 & 5796 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.11498 of 2017 & 5796 of 2018

and

W.M.P.Nos.7134 & 7135 of 2018

1.S.Alexander

2.C.Balasubramanian

3.P.Asokan

4.C.R.Jackson Williams

5.P.Uthayakumar

... Petitioners in both W.Ps

Vs.

1.The Principal Secretary to the Government of Tamil Nadu,
Tourism, Culture and Religious Endowments Department,
Secretariat,
Chennai 600 009.

2.The Chairman and Managing Director,
Tamilnadu Tourism Development Corporation Limited,
Tamilnadu Tourism Complex,
No.2, Wallajah Road (near Kalaivanar Arangam),
Chennai 600 002.

3.The General Manager,

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Tamilnadu Tourism Development Corporation Limited,
Tamilnadu Tourism Complex,
No.2, Wallajah Road (near Kalaivanar Arangam)
Chennai 600 002.

...Respondents in both W.Ps

Prayer in W.P.No.11498 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus calling for the records in so far as to the cancelling the appointment orders of the Petitioners as Assistant Manager (Trainee) directed by the 1st respondent, Principal Secretary to the Government of Tamilnadu, Tourism, Culture and Religious Endowments Department addressed to the 2nd respondent in his letter no.15399/T2-2/2015-1, dated 21.12.2015 and orders of the 2nd respondent issued in Proceedings No.4560/A2/2015 dated 19.08.2016, communicating the nod given by the Board in its 271st meeting held on 23.12.2015 for cancellation of the said appointment orders issued to the petitioners and quash the same and direct the Respondents from (1) to (3) to appoint the Petitioners as Assistant Manager (Hotel Division) in the vacancies now existed in furtherance to the fulfillment of required training undergone as Assistant Manager (Trainee) for a period one year from 29.07.2015 to 28.07.2016 by the Petitioners.

Prayer in W.P.No.5796 of 2018: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus calling for the records in so far as to filling up the vacancies with reference to the notification dated Nil, inviting applications for appointment to the post of Assistant Manager (Trainee) (Hotels) issued by the 2nd respondent, the Chairman and Managing Director, Tamilnadu Tourism Development



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Corporation Limited by direct recruitment in the web site of the Tamilnadu Tourism Development Corporation Limited and circular No.4560/A2/2014 dated 23.02.2018 issued by the 3rd Respondent, the General Manager, Tamilnadu Tourism Development Corporation with prescription of feeder category of posts and change in qualification for being appointed to the post of Assistant Manager (Trainee) (Hotel Division) by promotion, quash the same and direct the Respondents from (1) to (3) to appoint the Petitioners as Assistant Manager (Hotel Division) in the 5 vacancies now existed through the method of promotion instead of by direct recruitment in furtherance to the fulfillment of required training undergone as Assistant Manager (Trainee) for a period one year from 29.07.2015 to 28.07.2016 by the Petitioners as also eligibility of qualifications be found in already by the 2nd respondent, the Managing Director, Tamilnadu Tourism Development Corporation Limited.

For Petitioners : Mr.R.Ramachandran
For R1 : Mr.M.Murali
Government Advocate
For R2 & R3 : Mr.R.Neelakandan
Additional Advocate General,
assisted by Mr.N.Jaya Surya

COMMON ORDER

All the petitioners herein who were working as Accountants in the 2nd respondent made a claim for promotion to the post of Assistant Manager (Trainee) (Hotel Division) pursuant to the resolution No.267 dated 26.11.2014 passed by the Board of the 2nd respondent and the same was duly



considered by the 2nd respondent and they were promoted to the post of Assistant Manager (Trainee) (Hotel Division) through proceedings No.4560/A2/2015 dated 29.07.2015 and they have undergone training for a period of one year till 28.07.2016. In the meanwhile, the 1st respondent, through Letter No.15399/T2-2/2015-1 dated 21.12.2015, directed the 2nd respondent to cancel the promotions of the petitioners issued through proceedings dated 29.07.2015 on the ground that the said promotions effected are not in consonance with the Board resolution No.267. Accordingly, the 2nd respondent issued the impugned proceedings dated 19.08.2016 cancelling the promotions to the post of Assistant Manager (Trainee). Aggrieved by the said order, the petitioners filed W.P.No.11498 of 2017.

2. During the pendency of the said writ petition, the 2nd respondent issued a notification seeking to fill up the post of Assistant Manager (Trainee) by way of direct recruitment by issuing circular No.4560/A2/2015 dated 23.02.2018 seeking to fill up five vacancies of Assistant Manager (Hotel Division). Aggrieved by the said notification, the petitioners filed writ petition in W.P.No.5796 of 2018. This Court while entertaining the said writ petition,



passed an interim order dated 16.03.2018 directing the respondents to maintain *status quo* as on that date, till further orders. The said order is operating as on date.

3. Heard Mr.R.Ramachandran, learned counsel for the petitioner, Mr.M.Murali, learned Government Advocate for the 1st respondent and Mr.R.Neelakandan, learned Additional Advocate General for for respondents 2 and 3.

4. As seen from the affidavit filed in support of Writ Petition No.11498 of 2017, the basis for the petitioners to claim promotion to the post of Assistant Manager (Hotel Division) is the 267th Board resolution dated 26.11.2014. Though there appears to be certain promotions that were effected from the post of Junior Assistant etc, on an earlier occasions to the post of Assistant Manager (Hotel Division), the said promotions are not supported by any rule or rhyme or any resolution. It is only on finding that the said persons were holding the requisite qualification for the post of Assistant Manager (Hotel Division) they were appointed on promotion. Even assuming the post of Assistant Manager (Hotel division) was filled in by way



of promotion from the post of Accountant or Junior Assistants or any other post, without there being any basis for such promotion, that does not confer any right on the petitioners to make a legal claim for such promotion. As the said promotions effected on earlier occasion are not in accordance with law, the petitioners herein cannot make any legal claim for parity or equal treatment on par with such promotion that were effected earlier.

5. Then, the only basis for the petitioners to make claim for promotion to the post is based on the 267th resolution dated 26.11.2014. The promotions that were given in favour of the petitioners herein were ordered to be cancelled by the 1st respondent on the ground that the said promotions are not in accordance with 267th resolution dated 26.11.2014. Therefore, it is necessary to examine whether the promotions that are effected in favour of the petitioners are in accordance with the said resolution or not?

6. As already noted above, it is evident from the affidavit filed in support of the writ petition that the only basis of the petitioners to make a legal claim to the post in question is 267th resolution.

7. The 1st respondent filed detailed counter affidavit wherein



resolution No.267 dated 26.11.2014 is extracted. As seen from the said

Board Resolution of the 2nd respondent fixing the ratio of 3:1 for filling up the post of Assistant Manager (Trainee) as 3:1 among the direct recruits and the promotees under the very same resolution, the feeder categories for promotion to the post of Assistant Manager (Trainee) are also prescribed as Stewards/Receptionists with minimum seven years experience in TTDC Hotels. The post of Accountant in which all the petitioners were working is not the one that is included in the feeder category for the post of Assistant Manager (Trainee). However, the case of the petitioners were considered for promotion, without the post of Accountant being included in the feeder category and they were promoted. On noticing that the petitioners are not in the feeder category to the post of Assistant Manager (Trainee) and the ratio of 3:1 is not followed, the 1st respondent, through proceedings dated 23.12.2015, directed the 2nd respondent to cancel the promotions that are effected in favour of the petitioners. The superintendence power of the Government to issue order from time to time to the 2nd respondent herein is not in dispute and is not under challenge. The said proceedings dated 23.12.2015 issued by the 1st respondent is also not under challenge in this writ petition.



8. In the light of the above, this Court does not find any error or illegality in the impugned order dated 19.08.2016 especially in the context of the fact that there is no challenge to the proceedings dated 23.12.2015 issued by the 1st respondent.

9. Then, coming to W.P.No.5697 of 2018 wherein the notification issued for direct recruitment for the post of Assistant Manager (Trainee) (Hotels) is challenged on various grounds, this Court is of the considered view that the petitioners therein, who are not eligible for consideration of their case under the said notification, have no locus to challenge the said notification for want of being included in the feeder category to the post of Assistant Manager (Trainee). In the circumstances, this Court is of the considered view that the petitioners have no locus to challenge the recruitment notification, dated 23.02.2018 which is impugned in W.P.No.5697 of 2018.

10. In the light of the above, this Court does not find any merit in both the writ petitions and they are accordingly dismissed. The connected miscellaneous petitions, if any, shall stand closed. No costs.



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Index : Yes/No
Speaking Order : Yes/No
dpa

To:

- 1.The Principal Secretary to the Government of Tamil Nadu,
Tourism, Culture and Religious Endowments Department,
Secretariat,
Chennai 600 009.

MUMMINENI SUDHEER KUMAR,J.

dpa

- 2.The Chairman and Managing Director,
Tamilnadu Tourism Development Corporation Limited,
Tamilnadu Tourism Complex,
No.2, Wallajah Road (near Kalaivanar Arangam),
Chennai 600 002.
- 3.The General Manager,
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