



W.P.No.15025 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 05.04.2024

CORAM:

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.15025 of 2017

and

W.M.P.No.16262 of 2017

K.Sivakumar

...Petitioner

vs.

The Director of College Education,
College Road,
Nungambakkam,
Chennai – 600 006.

... Respondent

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in connection with the impugned order passed by the respondent in Na.Ka.No.139/B1/2017 dated 15.05.2017 and quash the same and direct the respondent to revise the seniority of the petitioner in the cadre of Assistant by including his name in the panel of Assistants for the year 2012-13 and grant him all consequential service and monetary benefits and grant such other further relief.

For Petitioner : Mr.K.V.Venkataramani
Senior Counsel

for Mr.M.Muthappan

For Respondent : Mr.R.Kumaravel
Additional Government Pleader



W.P.No.15025 of 2017

ORDER

This Writ Petition has been filed challenging the order passed by the respondent in Na.Ka.No.139/B1/2017, dated 15.05.2017 and sought for a consequential direction to the respondent to revise the seniority of the petitioner in the cadre of Assistant by including his name in the panel of Assistants for the year 2012-13 and grant him all consequential service and monetary benefits

2. The petitioner herein was originally appointed as Junior Assistant on 16.02.1999. The petitioner became eligible for promotion to the post of Assistant in the panel for the year 2005-06. However, the petitioner have chosen to relinquish the promotion by making a request. The request made by the petitioner was accepted by the respondent by issuing proceedings in Na.Ka.No.30740/B3/2005 dated 28.05.2006 for a period of three years. Thereafter, on expiry of three years period, once again the case of the petitioner came up for consideration for promotion to the post of Assistant during the panel year 2008-09. However, the petitioner once again has chosen to relinquish promotion by submitting a relinquishment letter, dated



W.P.No.15025 of 2017

08.10.2009. The said request of the petitioner was once again accepted through proceedings in Na.Ka.No.30740/B3/2005 dated 02.02.2010 for a period of three years under Rule 47 of the Tamil Nadu State and Subordinate Service Rules, 1996. Thereafter, the petitioner made a claim for consideration of his case for promotion to the post of Assistant during the panel year 2012-13. The said request of the petitioner was negated by the respondent by impugned proceedings on the ground that the relinquishment of promotion made by the petitioner for the second time for three panel years that is 2005-06 to 2012-13 and his case can only be considered for the post of Assistant only for the panel year 2013-14. The petitioner was subsequently promoted to the post of Assistant during the panel year 2013-14. The claim of the petitioner for the promotion to the post of Assistant in the panel year 2012-13 is concerned, the respondent has stated that the period of three years for such relinquishment runs from the date of issue of proceedings dated 02.02.2010 till the year 2012-13 and therefore, the petitioner would become eligible only for the panel year 2013-14 but not for the panel year 2012-13. As already noted above, it is also the case of the respondents that the relinquishment of promotion made by the petitioner on



W.P.No.15025 of 2017

two occasions for 6 panel years i.e., from 2005-06 to 2012-2013. Thus, it is contended that the petitioner is not entitled to be considered for the promotion for the 6 panel years.

3. However, Mr.Venkataramani, learned Senior Counsel appearing for the petitioner vehemently contended that the panels for the promotion required to be prepared on 15th March of every year and any delay caused in preparation of the panel cannot be put against the petitioner and therefore, the period of relinquishment shall operate only from the date on which the respondent was required to publish the panel and not from that date of preparation of the panel. Thus, he contended that the petitioner would become eligible for consideration during the panel year 2012-13 itself.

4. In the considered view of this Court, the said submission may not be relevant in so far as the facts of the present case on hand is concerned. Admittedly, the petitioner made a request for relinquishment of promotion by submitting a representation dated 08.10.2009 and the same was accepted by the respondents on 02.02.2010. Whether the said relinquishment was operative from the date of its acceptance or not, does not detain this Court from deciding the matter. The relinquishment was made by the petitioner by



W.P.No.15025 of 2017

submitting a representation dated 08.10.2009. It is always open for the respondent to accept the same on the same date or on the next day or even thereafter. The petitioner cannot be held responsible for any delay in accepting the request. Once the petitioner submitted the request for relinquishment for a period of 3 years in terms of Sub Rule 2 of Rule 47 of Tamil Nadu Sub-ordinate Service Rule and during the currency of such relinquishment, the petitioner cannot claim for consideration of his case for promotion. Such relinquishment would be operative from the date of such application but not on the date, when such relinquishment was accepted by the respondent. Therefore, the request for relinquishment of promotion made by the petitioner dated 08.10.2009 is required to be treated as starting point for commencement of period of relinquishment and for a period of three years thereafter. Even if that is taken into consideration also, the period of relinquishment would operate till 07.10.2012. The crucial date for preparation of panel for the year 2012-13 was 15.03.2012, which falls very much during the period of relinquishment made by the petitioner. Hence, the question of consideration of the case of the petitioner for the panel year 2012-13 does not arise. It is only after the period of expiry of the



W.P.No.15025 of 2017

relinquishment that is 07.10.2012, the petitioner will be eligible for considering his case for promotion for the next panel year that is 2013-14 for which the crucial date for preparation of panel year was 15.03.2013. Even, otherwise the stand of the respondent, that the petitioner is not entitled for consideration of his case for promotion for 3 panel years on each occasion of relinquishment also appears to be in accordance with Rule 47.

5. As already noted above, the case of the petitioner was considered and promoted to the post of Assistant during the panel year 2013-14. Thus, it is clear that there is no basis for the petitioner to make such a claim for promotion for the panel year 2012-13, as the period of relinquishment is very much operative as on the crucial date for promotion of the panel for the year 2012-13.

6. Under these circumstances, this Court does not find any infirmity or illegality in the order passed by the respondent and accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.



W.P.No.15025 of 2017

05.04.2024

WEB COPY

gba

Index : Yes/No

Speaking order : Yes/No

MUMMINENI SUDHEER KUMAR, J.

GBA

To

The Director of College Education,
College Road,
Nungambakkam,
Chennai – 600 006.

W.P.No.15025 of 2017
and W.M.P.No.16262 of 2017



WEB COPY



W.P.No.15025 of 2017

05.04.2024