



WEB COPY



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2025
CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 1253 of 2024

A.Balachandran

... Petitioner-in-person

..Vs..

1. Union of India
Rep. By the Secretary
Ministry of Petroleum and Natural Gas
New Delhi – 110 001.
2. The Chairman
Oil and Natural Gas
Corporation Limited (ONGC)
Tel Bhavan
Dehradu
PIN – 648 003
3. Executive Director / Asset Manager
Oil and Natural Gas Corporation Ltd.,
Cauvery Asset,
Karaikal – 609 604
Pondicherry Union Territory



WEB COPY

4. The General Manager (HR)-incharge
Corporate Promotion
Oil and Natural Gas Corporation Ltd.,
Tel Bhavan
Dehradun
PIN – 648 003.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records of the fourth respondent pertaining to his order made in File Ref.No: DDN/CORP-PROM/Rep/AB/2023 dated 16.03.2023 and quash the same, consequent to direct the respondents to promote the petitioner on notional basis to the cadre of DGM (E-6) Level and also promote him to the subsequent level of promotions and thereby revise and re-fix all the retirement service benefits, honorarium and pay the arrears of the same to the petitioner.

For Petitioner :: Mr. A.Balachandran

For 1st Respondent :: No appearance

For RR 2 to 4 :: Mr. Mohammed Fayaz Ali

ORDER



WEB COPY The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records of the fourth respondent/ the General Manager (HR)-incharge, Corporate Promotion, Oil and Natural Gas Corporation Limited (ONGC) at Dehradun, in File Ref.No: DDN/CORP-PROM/Rep/AB/2023 dated 16.03.2023 and quash the same and direct the respondents to promote the petitioner on notional basis to the cadre of DGM (E-6) Level and also promote him to the subsequent level of promotions and thereby revise and re-fix all the retirement service benefits, honorarium and pay the arrears of the same to the petitioner.

2. The writ petitioner had appeared as party-in-person. The Writ petitioner had retired from the respondent as Group General Manager (E) in the year 30.06.2017. He had been promoted to the said post of Group General Manager (E) in the year 2017. He had been earlier promoted as General Manager in the year 2012 and as Deputy General Manager in the year 2006. However, the grievance of the petitioner is that he was due and eligible to be promoted to the post of Deputy General Manager in the year 2003 itself. He was however promoted and his representation in that regard



was also not considered. He was eligible and due for promotion to the post of General Manager in the year 2008. However, again that particular promotion was not granted to him and was denied to him.

3. According to the petitioner, he should have been promoted to the post of Group General Manager (E) in the year 2012 but again he was not so promoted. The grievance of the petitioner is that he should have been further promoted as Executive Director and should have retired on attaining the age of superannuation on 30.06.2017 as Executive Director. However, the petitioner had not been granted the said promotion also.

4. The petitioner had given a representation in this regard on 31.01.2023. This representation had been considered by the fourth respondent and who had rejected the same by an order dated 16.03.2023 which is impugned in the present Writ Petition.

5. The order of the fourth respondent is extracted in entirety for better appreciation:-



WEB COPY “Subject: Your representation dated 31.01.2023 regarding promotion.

This has reference to your representation dated 31.01.2023 submitted to Chairman, regarding your promotion at various levels.

In this connection, it is informed that the corporate level posts in ONGO are senior managerial positions and the selection is decided on the basis of relative merit of the executives under consideration based on the service records, performance appraisal reports and potential, based on requirement of the organization. As these are merit promotions and positions are limited, there are possibilities that all eligible candidates may not be recommended for promotion to the next level. Further, it is also possible that junior meritorious candidates get promoted ahead of their senior counterparts.

Your representation has been examined and it is submitted that you were promoted to the post of Deputy General Manager (Electrical) (E6 level) w.e.f. 01.01.2006. Accordingly, your name was considered for the first time by the DPC for promotion to E7 level w.e.f. 01.01.2009, but was not recommended by the DPC, as



WEB COPY



you could not secure the required bench-mark/cut-off mark decided during the DPC. Your name was further considered by the DPC for promotion to E7 level but has not been recommended by the DPC till promotion year 01.01.2011. You were again considered for promotion to E7 level w.e.f. 01.01.2012 and were recommended for promotion to E7 level w.e.f. 01.01.2012.

Subsequently, for promotion to E8 level, your name was considered for the first time by the DPC w.e.f. 01.01.2016, but was not recommended by the DPC, as you could not secure the required bench-mark/cut-off mark decided during the DPC. Your name was further considered by the DPC for promotion to E8 level w.e.f. 01.01.2017 and you were recommended for promotion to E8 level w.e.f. 01.01.2017.

It is reiterated that, recommendations of DPC are based on comparative and relative assessment of all candidates under consideration and those who secure benchmark decided by DPC are recommended for promotion. DPC evaluates every executive under consideration, purely on merit without any discrimination based on category, region, religion or gender.

With reference to the court order dated 11.10.2022, your representation has been brought to the notice of the



WEB COPY



Competent Authority of ONGC and it is informed that the decision made by the DPCs during various occasions for your promotions to E7 and E8 level were justified and in accordance with the rules of ONGC.”

6. A careful perusal of the order shows that the fourth respondent had claimed that the corporate level posts in ONGC are senior managerial positions and selection is decided on the basis of relative merit of the executives under consideration based on the service records, performance appraisal reports and potential based on requirement of the organisation.

7. These may be high flowing words but what is important is that selection is decided on the basis of relative merit of the executives, who are in the zone of promotion. If the petitioner had raised an issue of not being considered for promotion at the earliest point of time and had sought an explanation as to why he was not so promoted then an obligation was on the Officer, who dealt with such representation to give a detailed explanation as to how appraisal report of the other Officers, who were considered for promotion had been appreciated. This detailed explanation should have been given as a report to the petitioner herein. Merely stating that the



performance appraisal reports and merit were considered is not the proper manner to brush away the claim of the petition of deliberate discrimination.

The petitioner had raised his grievances. The respondents had an obligation to address such grievances. The Officer, who had issued the impugned order should have been given the names of those whose merits had been examined visa-vis, the merits of the petitioner. The petitioner should have given to reason to know why he was not considered for promotion. Those details must have been given by the respondent.

8. The learned counsel for the respondents stated that these details had been given in the counter affidavit. The counter affidavit cannot expand the scope of the impugned order.

9. In *State of Punjab Vs. Banddeep Singh and Others*, reported in **(2016) 1 SCC 724**, the Hon'ble Supreme Court had held as follows:-

“4. There can be no gainsaying that every decision of an administrative or executive nature must be a composite and self-sustaining one, in that it should contain all the



WEB COPY



*reasons which prevailed on the official taking the decision to arrive at his conclusion. It is beyond cavil that any authority cannot be permitted to travel beyond the stand adopted and expressed by it in the impugned action. If precedent is required for this proposition it can be found in the celebrated decision titled **Mohinder Singh Gill v. Chief Election Commr. [(1978) 1 SCC 405 : (1978) 2 SCR 272]** of which the following paragraph deserves extraction : (SCC p. 417, para 8)*

*“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of **Bose, J. in Gordhandas Bhanji [Commr. of Police v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16 : 1952 SCR 135] : (AIR p. 18, para 9)***

‘9. ... public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind,



WEB COPY



or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.'

Orders are not like old wine becoming better as they grow older."

10. In the impugned order, it had been further stated that the representation of the petitioner had been examined and that he had been promoted as Deputy General Manager (E) with effect from 01.01.2006. But the issue is that this promotion of Deputy General Manager should have been granted to the petitioner in the year 2003. The reason why it was not granted in the year 2003 should have been stated. Writing a few high flowing lines justifying denial of promotion or the manner of disposal of a representation would not withstand the scrutiny of the Court. The respondents should have understood the grievances raised by the petitioner herein. The only authority to whom he can state his grievances are the respondents herein. The respondents should have examined the representations in a more detailed manner.



WEB COPY 11. Giving an explanation in the counter affidavit would not come to the assistance of the respondents. In the impugned order, it had been further stated that for further promotion to E8 level, though the name of the petitioner was considered on 01.01.2016, it was not recommended by the DPC as according to the impugned order, the petitioner could not secure the required Bench Mark/Cut off mark decided by the DPC. If that be the explanation given then in the impugned order, the Bench Mark / cut off mark as determined by the DPC should have been stated. This would have provided clarity to the petitioner. Unfortunately, in the impugned order, except statements made, no specific details had been given. These statements are not substitutes for specific details which the petitioner requires and which the petitioner sought and which the petitioner now complain had not been given to him.

12. I hold that the impugned order would necessarily have to be set aside. The impugned order is set aside and the matter is remitted back to the fourth respondent. It is hoped that the fourth respondent would atleast now apply his mind and give specific details as to why the petitioner was not



promoted as Deputy General Manager in the year 2003, as to why the petitioner was not promoted in the post of General Manager in the year 2008 and as to why the petitioner was not promoted to the post of Group General Manager (E) in the year 2012. It may also be stated as to why the petitioner was not even considered to be promoted to the post of Executive Director in the year 2014. The fourth respondent is also directed to give an opportunity of personal hearing to the petitioner.

13. The Writ Petition stands allowed. The impugned order is set aside and the matter is remitted back to the fourth respondent for fresh consideration. The fourth respondent is given a time period of six weeks to examine the representation given and pass orders thereafter.

19.03.2025

vsg
Index: Yes/No

(2/2)



Internet: Yes/No

Speaking / Non Speaking Order

WEB COPY

1. The Secretary
Union of India
Ministry of Petroleum and Natural Gas
New Delhi – 110 001.
2. The Chairman
Oil and Natural Gas
Corporation Limited (ONGC)
Tel Bhavan
Dehradun
PIN – 648 003

C.V.KARTHIKEYAN, J.,

vsg

3. Executive Director / Asset Manager
Oil and Natural Gas Corporation Ltd.,
Cauvery Asset,
Karaikal – 609 604
Pondicherry Union Territory
4. The General Manager (HR)-incharge
Corporate Promotion
Oil and Natural Gas Corporation Ltd.,
Tel Bhavan
Dehradun
PIN – 648 003.



WEB COPY



14

W.P.No. 1253 of 2024

19.03.2025

(2/2)