

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2009

CORAM

THE HONOURABLE MR.JUSTICE K.CHANDRU

W.P.NO.39000 OF 2006  
(O.A.NO.4774 OF 1999)

J.Lalitha

..Petitioner

Vs.

1.The State of Tamilnadu,  
rep. By Secretary to Government,  
Information and Tourism Department,  
Fort St. George, Chennai-9.

2.The Director of Stationary &  
Printing,  
816, Anna Salai,  
Chennai-2.

...Respondents

This writ petition is preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorarified mandamus to call for the records of the first respondent in his letter No.17847/S&PI/97 dated 14.6.1999 and to quash the order passed therein and to direct the respondents to grant the benefit of upgradation to the post of Joint Director to the petitioner with effect from 16.5.1997 in terms of G.O.Ms.No.126 Information & Tourism Department, dated 16.5.1997 together with all consequential monetary benefits, terminal benefits and pensionary benefits.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.R.Neelakandan, GA

ORDER

Heard both sides.

2.This writ petition arose out of O.A.No.4774 of 1999 filed by the petitioner before the Tamil Nadu Administrative Tribunal. In view of the abolition of the Tribunal, it was transferred to this court and was renumbered as W.P.No.39000 of 2006.

3.The petitioner sought for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent in his letter No.17847/S&PI/97 dated 14.6.1999 and to quash the order passed therein and to direct the respondents to

grant the benefit of upgradation to the post of Joint Director to the applicant with effect from 16.5.1997 in terms of G.O.Ms.No.126 Information & Tourism Department, dated 16.5.1997 together with all consequential monetary, terminal and pensionary benefits.

4. Notwithstanding the formation of the State Tribunal, the petitioner filed Writ Petition No.1828 of 1999 before this court. This Court, by an order, dated 8.2.1999, directed the respondents to consider the petitioner's case for the post of Joint Director in accordance with law. Accordingly, the impugned order, dated 14.6.99 came to be passed rejecting her claim. The petitioner by that time got retired from service on 17.9.97.

5. The petitioner challenged the impugned order before the Tribunal in OA No.4774 of 1999. On notice from the tribunal, the first respondent has filed a reply affidavit, dated 19.6.2000, justifying the impugned order. In paragraph 9 of the reply affidavit, it was averred as follows:

"9. It is respectfully submitted with reference to para 6(f) of the application that based on the judgment of Hon'ble High Court in W.P.No.1828/99 the claim of the applicant was considered and the Government in their letter No.17847/S&P.I/97, Information and Tourism Department, dated 14.6.99 have rejected the claim of the applicant for the following reasons.

i) that the applicant has voluntarily retired from service on 17.9.97, the request relates to the period between 16.5.97 to 17.9.97 (i.e. from the date of issue of Government order upgrading the post of Deputy Director to Joint Director and date of her voluntary retirement).

ii) that the applicant has not acted as Joint Director during the above mentioned period in the upgraded post and no adhoc rules have been framed for the said post. Before the Government could frame the adhoc rules and initiate steps to fill up the post, the applicant went on voluntary retirement on her own volition.

iii) As the applicant was not appointed as Joint Director and consequently she has not performed the duties and responsibilities attached to the post of Joint Director, the request of the applicant for extending benefits of upgradation is unsustainable."

6. In the light of the stand taken by the respondents, no case is made out to entertain the writ petition.

7.It may be useful to refer to the decision of the Supreme Court in State of Uttar Pradesh and others Vs. Roshan Singh and others reported in 2006 (13) SCC 661, wherein the Supreme Court had set aside a direction for promotion for which a claim was made after retirement.

8.In the light of the above, this writ petition is misconceived and accordingly, will stand dismissed. No costs.

Sd/-  
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

vvk

To

- 1.The Secretary to Government,  
The State of Tamilnadu,  
Information and Tourism Department,  
Fort St. George, Chennai-9.
  - 2.The Director of Stationary & Printing,  
816, Anna Salai, Chennai-2.
- + 1 cc to Mr.V.Raghavachari, Advocate, SR.49814.

ORDER IN  
W.P.NO.39000 OF 2006

BKY (CO)  
A.S./07.10.2008

सत्यमेव जयते

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