

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10657 of 2014  
and M.P.No.1 of 2014

S. Murugesan

... Petitioner

Vs.

1.The Secretary to Government,  
Department of Differently Abled  
Fort St. George, Chennai-9.

2.The State Commissioner &  
Commissioner for Differently Abled  
K.K.Nagar, SRTC Compound,  
Chennai-78.

3.The Principal,  
Government Industrial Training Centre for Blind,  
Poonamallee, Chennai-56 ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of a writ to calling for the records of the 1<sup>st</sup> respondent in connection with the impugned order passed in GO (1D) No.03/Differently Abled (MTN1) Department dated 04.02.2014 and quash the same in so far as denying the service benefits to the petitioner w.e.f. 01.08.2005 and further direct the respondents to grant service benefits from the date of holding the post from 01.08.2005 and grant him all consequential service and monetary benefits including pensionary benefits.

For Petitioner : Mr. M. Muthappan

For Respondents : Mr. K. Thangapandi  
Government Advocate

O R D E R

The relief sought in this writ petition is for a direction to quash the order passed by the first respondent in proceedings dated 04.02.2014 granting temporary promotion to the writ petitioner to the post of Manager available in the

Government Industrial Training Centre for the Blind at Poonamallee.

2. The learned counsel appearing for the writ petitioner submits that the writ petitioner is a holder of National Trade certificate in Fitter issued by the National Trade Training Institute, Government of India. The writ petitioner was appointed as Industrial Instructor by the order of the Principal/Investigator, Government Industrial Training Centre for Blinds, Poonamallee in proceedings dated 26.07.1990. The petitioner has completed his probation on 01.08.1992.

3. The learned counsel for the writ petitioner states that the petitioner was fully qualified to hold the post of Manager and he was posted as in-charge Manager of the Institute with effect from 01.08.2005. Though the vacancy during the relevant point of time was available the regular promotion was not granted to the writ petitioner without any valid reason. However, the writ petitioner was posted as Manager in-charge and continued in the same capacity for many years and finally he filed writ petition in W.P.No.24511 of 2009 and this Court passed an order on 06.03.2013 directing the respondent to consider the claim of the writ petitioner and pass orders.

4. Pursuant to the order passed by this Court, the respondent issued the impugned order in proceedings dated 04.02.2014, promoting the writ petitioner temporarily to the post of Manager under rule 39(a)(i) of the Tamil Nadu State Subordinate Service Rules. Accordingly, the writ petitioner continued as temporary Manager of the Institute and retired from service.

5. Under these circumstances, the petitioner claims that as he was fully qualified to hold the post of Manager and he was posted as Manager in charge with effect from 01.08.2005, he is entitled for all the monetary and other consequential benefits in the post of Manager with effect from 01.08.2005 onwards.

6. This Court is of the opinion that mere acquiring of a qualification will not confer any right to the employee to seek promotion. Promotion itself can never be claimed as a matter of right. Consideration for promotion is alone a fundamental right. Thus, the monetary benefits can be claimed only with effect from the date of actual promotion. Mere eligibility or acquisition of qualification cannot be a ground to claim monetary benefits in the promotional post.

7. This apart, the writ petitioner was posted as Manager in charge in the Institute with effect from 01.08.2005. A person posted as in charge in a particular post cannot claim any benefit of that post. Posting of an employee as in charge is an interim arrangement and the monetary and

other consequential service benefits can be claimed only in the event of getting regular promotion and by way of an order to that effect. However, in the case on hand the writ petitioner was actually promoted as temporary Manager with effect from 04.02.2014, and the benefits attached to the post of Manager was granted to the writ petitioner from the date of appointment in the post of Manager, pursuant to the order dated 04.02.2014. In this view of the matter, the claim regarding the grant of monetary and other benefits to the post of Manager with effect from 01.08.2005 cannot be considered by this Court.

8. Accordingly, this writ petition stands dismissed. Consequently, the connected Miscellaneous Petition is also dismissed. No costs.

Sd/-  
Assistant Registrar(CCC)

// True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,  
Department of Differently Abled  
Fort St. George, Chennai-9.
- 2.The State Commissioner &  
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K.K.Nagar, SRTC Compound,  
Chennai-78.
- 3.The Principal,  
Government Industrial Training Centre for Blind,  
Poonamallee, Chennai-56

+lcc to Mr.M.Muthappan, Advocate SR.No.76296

+lcc to Government Pleader SR.No.76925

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GN(27/11/2017)