

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16117 of 2014

K. Ramakrishnan Iyer

... Petitioner

Vs.

1.The State of Tamil Nadu

Represented by its Principle Secretary,
Home (Prison 2 Department)
Chennai-600 009.

2.The Secretary to Government,
Personnel and Administrative
Reforms (Per B) Department,
Fort St George, Chennai-600 009.

3.Inspector General of Prison,
Chennai-600 008.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in the impugned order in letter No.32028/Prison.2/2013-5 dated 22.10.2013 of the 1st respondent and consequently direct the respondents to upgrade the petitioner to the post of Typist Grade-I either from 01.01.1996 or from 01.06.1996 with all consequential service and attendant benefits including pension benefits.

For Petitioner : Mr. D. Prabhu Mukunth

For Respondents : Mrs. K. Bhuvaneswari
Government Advocate

O R D E R

The order of rejection issued by the respondent in proceedings dated 22.10.2013 in respect of the claim of the writ petitioner to upgrade the writ petitioner to the post of Typist Grade-I either from 01.01.1996 or from 01.06.1996 is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was initially appointed as Typist on 26.05.1976 in Coimbatore Central Jail and thereafter he was transferred to Palayamkotttai Jail on 26.01.1978. The writ petitioner was allowed to retire from service on 31.03.2007 on attaining the age of superannuation. Further, the selection grade in the post of Typist was granted to the writ petitioner on completion of 10 years of service and the special grade was also given on completion of 20 years of service.

3. The learned counsel for the writ petitioner states that originally eight post of Typist grade-I were created by the Government and the name of the petitioner was placed in serial No.9 and he was unable to be provided with the upgraded post of Typist Grade-I. The writ petitioner is fully qualified to hold the post of Typist Grade-I and the claim of the writ petitioner is that the eighth person who was posted as Typist Grade-I retired from service on 31.12.1995 and therefore, the petitioner ought to have been promoted as Typist Grade-I with effect from 01.01.1996. In this regard, the learned counsel for the writ petitioner states that the promotion is automatic and the Government also issued G.O.Ms. No.45 Personnel and Administrative Reforms Department, dated 15.02.1994. The said Government Orders says that "the Government also direct that newly created post Typist Grade-I shall be filled up by the method of promotion. This shall be done after obtaining necessary sanction order created for the post of Typist Grade-I by the Head of the Department. This apart, the learned counsel referred to G.O.Ms.No.104, dated 28.04.1994, the said Government Orders also says that the time limit for exercising the option either to remain in the Typist post claim ought to have been given with effect from 15.09.1994.

4. On a perusal of the Government orders this Court is of the opinion that the promotion to the post of Typist Grade-I can never be claimed automatically and the competent authority has to prepare the list of eligible person by following procedure contemplated under the rules and thereafter confer promotion in accordance with the availability of the vacancies. Admittedly, no such exercise was done by the authorities competent in this case. The writ petitioner merely claims that the post held by the eighth person in the seniority remains vacant with effect from 01.01.1996 and he must be promoted automatically on 01.01.1996. There is no concept called automatic promotion unless the same is contemplated under the rules or by way of policy by the Government. A special promotion by way of one time arrangement is some time granted by the

Government under special circumstances in an exceptional case. Thus, one time promotion granted by virtue of length of service cannot be considered as precedent in all other cases, in the absence of any specific rules or orders in this regard. In the case on hand the writ petitioner is unable to substantiate any such one time promotion or otherwise. Thus, the department has to follow the procedures for preparation of panel of eligible person fit for promotion to the post of Typist Grade-I and thereafter consider the promotion.

5. This Court is of the view that promotion can never be claimed as a matter of right . However, consideration for promotion is a fundamental right and the employee has got a basic right of seeking consideration if he is otherwise qualified for promotion. However, mere acquisition of qualification for a particular higher post cannot be construed as a right for promotion. Promotion is to be granted in accordance with rules in force equally to all the eligible persons by preparing a panel in accordance with the procedure contemplated.

6. Thus, the claim set out by the writ petitioner in this writ petition is misconceived and this Court is not inclined to consider the grounds raised in this writ petition.

7. Accordingly, this writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- सत्यमेव जयते
- 1.The Principle Secretary,
State of Tamil Nadu
Home (Prison 2 Department)
Chennai-600 009.
 - 2.The Secretary to Government,
Personnel and Administrative
Reforms (Per B) Department,
Fort St George, Chennai-600 009.
 - 3.Inspector General of Prison,
Chennai-600 008.

+1 cc to Mr.D.Prabhu Mukanth Arunkumar Advocate sr 77015
+1 cc to the Govt Pleader sr 76739

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