

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19201 of 2017

1.Dr.S.G.Ramesh Kumar

.. Petitioner

Vs.

1.The Principal Secretary to Govt.
Health and Family Welfare Department
Government of Tamilnadu
Secretariat, Chennai 600 009.

2.Director of Medical Education
Directorate of Medical Education
Kilpauk, Chennai 600 010.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus and directing the respondents to promote the petitioner in the post of Associate Professor/Reader in the specialty of Public Health Dentistry under the services of Tamil Nadu Medical Services in the existing vacancy at Tamil Nadu Government Dental College & Hospital, Chennai on promotion, by considering the petitioner's representation dated 14.06.2016 and 12.10.2016 within a reasonable time to be fixed by this Hon'ble Court.

For Petitioner : Mr.S.Sthayamurthy

For Respondents : Mr.S.Guneseakaran

Additional Government Pleader

O R D E R

The relief sought for in this writ petition is for a direction, directing the respondents to promote the petitioner in the post of Associate Professor / Reader in the specialty of Public Health Dentistry under the services of Tamil Nadu Medical Services in the existing vacancy at Tamil Nadu Government Dental College & Hospital, Chennai.

2.The learned counsel appearing for the writ petitioner contended that the writ petitioner was appointed to the post of Assistant Dental Surgeon in Tamil Nadu Government Medical

Services, and now he is working as a Senior Assistant Professor in the department of Public Health Dentistry at Tamil Nadu Government Dental College & Hospital, Chennai from the year 2011.

3.The grievances set out in this writ petition is that the writ petitioner is working as the Assistant Professor in the Dental College for more than six years and in spite of the availability of the vacancy in the post of Reader cum Associate Professor, no promotion has been given to him. The writ petitioner has submitted his representation to promote him to the post of Associate Professor/ Reader, but the respondents have not considered the same.

4.The learned counsel further contended that the vacancies are available and there is a need to fill up the post also. In spite of the urgency and in stead of the request of the Dean of the Hospital, the Government has not taken any initiative to fill up the vacancies. Thus, the writ petitioner is forced to move this writ petition.

5.This court is of the firm view that promotion can never be claimed as a matter of right and consideration for promotion is a fundamental right. The right will accrue an employee only at the time of preparation of the list of panel for promotion. Since, because the vacancies are available, the Government employees cannot claim promotion as a matter of right. If any of the juniors to the writ petitioner is promoted, then also the right will accrue to the writ petitioner.

6.At the outset, in the absence of the preparation of any panel or in the event of promotion of any one of the juniors to the writ petitioner, the writ petitioner cannot be construed as an aggrieved person and there is no right to claim promotion or of direction to fill up the post by the Government. This Court is unable to see any of the service conditions or right is violated as far as the writ petitioner is concerned. Thus, the writ petitioner is not an aggrieved person and the present writ petition is premature.

7.Further, this court at this stage, in order to secure promotion to the writ petitioner cannot issue a direction to the Government to fill up the post urgently. The public interest and other needs of the department has to be considered by the Government and this Court cannot have any say or assess the administrative affairs of the Government. Such being the factum of this case, no further consideration is required.

8. Accordingly, the writ petition stands dismissed. However, there is no order as to costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

dna/kas

To

1. The Principal Secretary to Govt.
Health and Family Welfare Department
Government of Tamilnadu
Secretariat, Chennai 600 009.

2. Director of Medical Education
Directorate of Medical Education
Kilpauk, Chennai 600 010.

+ 1 cc to Mr. Sivakumar, Advocate Sr.53078
+ 1 cc to Mr. R. Sreedharan, Advocate SR.53626
+ 1 cc to Mr. Government Pleader Sr.54594

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EU 30.08.17

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