

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13464 of 2010

K.Sundaraswamy

..Petitioner

vs

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.

2.The Director of Drugs Control,
DMS Compound,
Anna Salai, Teynampet,
Chennai - 600 006.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to forthwith grant promotion to the petitioner as Joint Director of Drugs Control from November, 2009 with all other monetary and consequential benefits.

For Petitioner : Mr.P.Saravana Sowmiyan
For Respondents : Mr.K.Thangapandi
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to the 1st respondent to forthwith grant promotion to the petitioner as Joint Director of Drugs Control from November, 2009 with all other monetary and consequential benefits.

2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was appointed as Drugs Inspector on 1.6.1978 and subsequently, promoted to the post of Senior Drugs Inspector in October 2004. The writ petitioner was further promoted as Assistant Director of Drugs Control in August 2006 and to the post of Deputy Director of Drugs Control on 26.3.2008. The next avenue for promotion is to the post of Joint Director of Drugs Control. The petitioner states that he is fully qualified for promotion to the post of Joint Director. However, his case was not considered.

3.The learned Government Advocate appearing on behalf of the respondents states that the case of the writ petitioner was considered and before finalizing the panel for promotion to the

post of Joint Director, he retired from service on 30.04.2010 and therefore, the petitioner was unable to get his opportunity for promotion to the post of Joint Director of Drugs Control. In this regard, the learned counsel for the respondents further states that the crucial date for preparation of panel for the post of Joint Director of Drugs Control was 01.04.2009. The post of Joint Director became vacant with effect from 30.09.2009. The estimated vacancy was submitted to the 1st respondent by the 2nd respondent for the year 2009-2010 on 28.1.2010. After due consideration, the panel of the year 2009-2010 was almost over and the 1st respondent by letter dated 25.2.2010 has called for estimated vacancies to the post of Joint Director of Drugs Control for the year 2010-2011. The crucial date for the panel was 01.04.2010 and the writ petitioner retired from service on 30.04.2010. Thus, the estimated vacancy for the post of Joint Director of Drugs Control for the year 2010-2011 together with a proposal for filling up of the said post duly including the names of all the three Deputy Directors of Drugs Control was submitted to the 1st respondent by the 2nd respondent by letter dated 17.4.2010. While the panel was under consideration and process at the Government level, the petitioner was allowed to retire from service on 30.04.2010 on attaining the age of superannuation. Thus, there is no irregularity in not granting promotion to the writ petitioner.

4. Promotion can never be claimed as a matter of right. Consideration for promotion is not a fundamental right. It is not the case as if a promotion to the junior to the writ petitioner was granted. No doubt, the name of the petitioner was also considered, while preparing the panel. However, he reached the age of superannuation on 30.04.2010. Thus, there is no irregularity in respect of not granting promotion to the writ petitioner and it is unfortunate to state that before finalizing the approved panel at the Government level, the writ petitioner has attained the age of superannuation on 30.04.2010. Thus, the writ petitioner has not made out any valid ground for considering the relief of promotion to the post of Joint Director of Drugs Control.

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

kak

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.

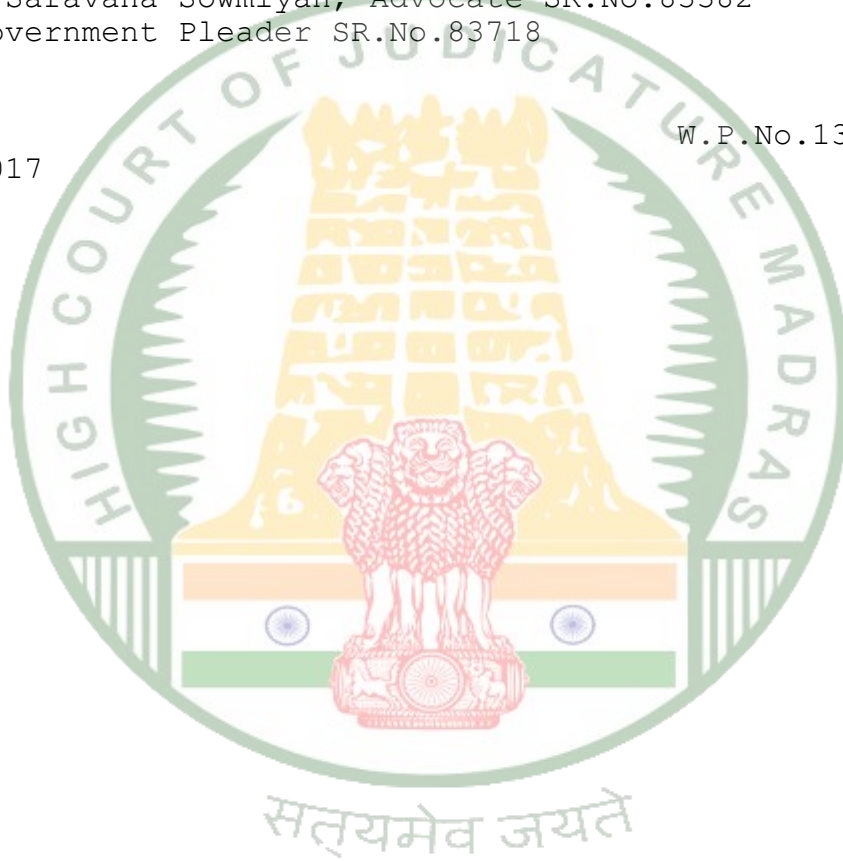
2.The Director of Drugs Control,
DMS Compound,
Anna Salai, Teynampet,
Chennai - 600 006.

+1cc to P.Saravana Sowmiyan, Advocate SR.No.83382

+1cc to Government Pleader SR.No.83718

W.P.No.13464 of 2010

sm:8.12.2017



WEB COPY