

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7049 of 2013

A.Dharmalingam

.. Petitioner

vs.

1. The Government of Tamil Nadu,
rep. by the Principal Secretary to the Government,
Health and Family Welfare Department,
Chennai - 600 009.

2. The Director of Medical and Rural Health
Services, Chennai - 600 006.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus, directing the 1st respondent to consider the proposals submitted by the second respondent in Ref.No.31999/E6/1/2009 dated 22.12.2011 for inclusion of the petitioner's name in the panel for the post of Director of Family Welfare for the year 2011-12.

For Petitioner : Mr.P.Manoj Kumar
For Respondents : Mrs. A.Shrijayanthi
R1 & R2 Spl.Government Pleader.

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to consider the proposals submitted by the second respondent in Ref.No.31999/E6/1/2009 dated 22.12.2011 for inclusion of the petitioner's name in the panel for the post of Director of Family Welfare for the year 2011-12.

2. The learned counsel for the petitioner made a submission that, the writ petitioner was fully qualified and eligible for promotion to the post of Director of Family Welfare. His name was considered and a proposal was submitted by the second respondent on 22.12.2011 for the consideration of the name of the writ petitioner in the panel for the year 2011-2012 for promotion to the post of Director of Family Welfare. However, the writ petitioner was not promoted with reference to the proposal already submitted by the 2nd respondent on 22.12.2011.

3. The learned Government Advocate appearing on behalf of the respondents brought to the notice of this Court that, the writ petitioner was allowed to retire from the service on 31.01.2012, on attaining the age of superannuation. It is further contended that, even before filing of the writ petition, the writ petitioner was retired from service and therefore the relief sought for in this writ petition cannot be considered at all.

4. This Court is of an opinion that, promotion can never be claimed as a matter of legal right. However, consideration for promotion is a fundamental right of an employee. An employee who is eligible and qualify in accordance with the Rules in force should be considered along with all other eligible candidates waiting for promotion. In the event of considering the case for promotion, all the eligible persons must be considered.

5. In the present case on hand, undoubtedly, a proposal was submitted by the second respondent to consider the name of the writ petitioner for promotion to the post of Director of Family Welfare. However, the writ petitioner attained the age of superannuation on his retirement on 31.01.2012. Thus, the writ petitioner cannot claim promotion as a matter of legal right, as his case was not considered in the panel for the year 2011-2012, and no promotion was granted before the date of retirement.

6. In view of the above facts, the relief as such sought for in the present writ petition deserves no consideration. Accordingly the writ petition stands dismissed. No Costs.

pkn

Sd/-

Assistant Registrar(CS V)

//True Copy// जयते

Sub Assistant Registrar

To

1. The Principal Secretary,
Government of Tamil Nadu,
Health and Family Welfare Department,
Chennai - 600 009.
2. The Director of Medical and Rural Health
Services, Chennai - 600 006.

+1cc to Mr.P.Rajendran, Advocate S.R.No.71199

+1cc to the Government Pleader, S.R.No.71137

KR/2/11/18