

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2018

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No.7888 of 2015 & M.P. No.1 of 2015

A. Manoharan

Petitioner

vs.

1 The State of Tamil Nadu
Finance (Local) Fund Department
Secretariat
Chennai 600 009

2 The Director
Local Fund and Audit Department
Kuralagam, IV Floor
Chennai 600 108

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to notionally promote the petitioner to the post of Assistant Director of Local Fund Audit with effect from 01.09.2013, the circular date for the panel for the year 2013-2014 and pay all the consequential pensionary benefits and monthly pension including commutation of pension, pay revision and pension arrears with effect from 01.09.2013.

For petitioner :Mr. R. Jayaprakash

For respondents:Mr. V. Jayaprakash Narayanan
Special Government Pleader

ORDER

This writ petition has been preferred seeking a writ of mandamus directing the respondents to notionally promote the petitioner to the post of Assistant Director of Local Fund Audit with effect from 01.09.2013, the crucial date for the panel for the year 2013-2014 and pay all the consequential pensionary benefits and monthly pension including commutation of pension, pay revision and pension arrears with effect from 01.09.2013.

2 The learned counsel for the petitioner submitted that when the petitioner was serving as Deputy Inspector, he got promotion to the post of Inspector in 2007 and after attaining the age of superannuation, he retired from service with effect from 30.06.2014; but, before he retired from service, taking

into account the crucial date as 01.09.2013 for preparing the panel for promotion to the post of Assistant Director, a seniority list was prepared showing his name at Serial No.237 and below him, his junior one T. Chellakani was also shown at Serial No.241 and the petitioner was also awaiting promotion order; however, till he reached the age of superannuation on 30.06.2014, he was not issued with promotion order, but, on the other hand, G.O. (Ms.) No.51, Finance (Local Fund) Department dated 26.02.2015 was issued granting promotion to 44 persons and as he was not in service, his name was not included in the said Government Order; albeit the petitioner retired from service on reaching the age of superannuation with effect from 30.06.2014, since, the crucial date for the panel year 2013-2014 was taken as 01.09.2013 based on which others were given promotion, in G.O. (Ms.) No.51, Finance (Local Fund) Department dated 26.02.2015, the petitioner's name also should have been included, so that he could also receive higher pensionary benefits; in this regard, the petitioner has addressed a representation dated nil which is under consideration and therefore, a direction may be issued, as aforesaid.

3 The learned Special Government Pleader submitted that though the petitioner's name was also shown in the panel prepared by showing his name at Serial No.237, yet, before the promotion order, viz., G.O. (Ms.) No.51, Finance (Local Fund) Department dated 26.02.2015 was issued giving promotion to the persons who were in service, the petitioner had retired from service on 30.06.2014 and as such, he could not be given promotion.

4 This Court does find merit in the submission made by the learned Special Government Pleader. As a matter of fact, although the petitioner's name was shown at Serial No.237 in the panel prepared for promotion to the post of Assistant Director taking into account the crucial date as 01.09.2013, final promotion was given only on 26.02.2015, which is nearly after eight months after the petitioner's retirement from service. Besides, a retired person cannot be promoted.

In such perspective of the matter, this Court is of the opinion that the petitioner is not entitled to the relief sought in this writ petition. Accordingly, this writ petition is dismissed as being devoid of merits. Costs made easy. Connected W.M.P. is closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

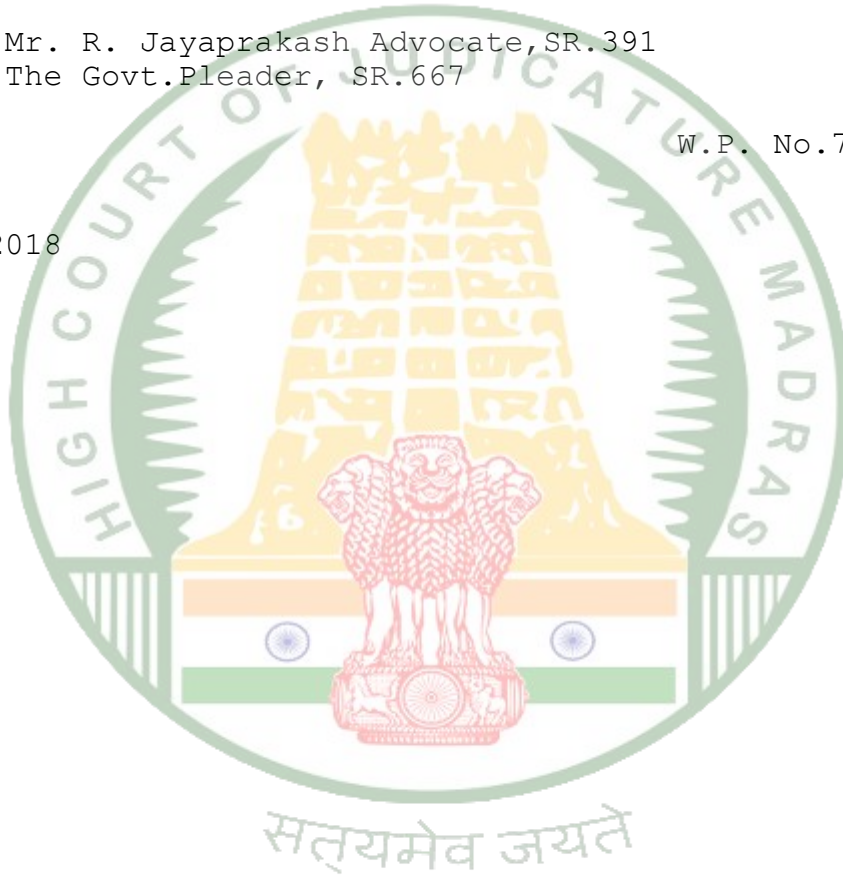
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+ 1 cc to Mr. R. Jayaprakash Advocate, SR.391
+ 1 cc to The Govt.Pleader, SR.667

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