

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07-02-2019

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

W.P.No.4357 of 2018

V.Anbarasan

...Petitioner

Vs

Commissioner,
Bahour Commune Panchayat,
Bahour,
Pondicherry.

... Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to consider the representation of the petitioner dated 5.12.2017 and to promote the petitioner to the post of Work Inspector with all consequential monetary and attendant benefits.

For Petitioner : Mr.M.Gnanasekar

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O R D E R

The relief sought for in the present writ petition is to direct the respondent to consider the representation submitted by the writ petitioner on 5.12.2017 and to promote the writ petitioner to the post of Work Inspector with all consequential monetary and attendant benefits.

2. Promotion can never be claimed as a matter of right. However, consideration for promotion is a fundamental right of an employee. All the eligible employees, who all are aspiring to secure promotions are to be considered at the time of preparation of panel by the competent authorities. Thus, this Court cannot issue directions to promote an employee in the absence of establishing that any such promotions are granted in violation of the Rules or the junior to the writ petitioner has been promoted.

3. In the present case on hand, a direction is sought for to consider the representation and to promote the writ petitioner to the post of Work Inspector. If the writ petitioner is qualified and if an administrative decision is taken to fill up the higher post, then the authorities competent have to

prepare the panel by considering all the eligible candidates, who all are waiting for promotion to the higher post.

4. This being the principles to be followed, the direction, as such, sought for to consider the representation cannot be granted. Even for issuing a direction to consider the representation, the writ petitioner has to establish his legal right. It is a precondition that the legal right is to be established for entertaining the writ petition.

5. In the present case on hand, except the representation, no other progress in respect of filling up of the higher post has been established by the writ petitioner and therefore, the respondent is bound to consider all the eligible candidates, whenever the process of promotion is undertaken in view of the Rules in force.

6. With the above observations, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

Commissioner,
Bahour Commune Panchayat,
Bahour,
Pondicherry.

W.P.No.4357 of 2018

KJI (CO)

rrs 06/03/2019

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