

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-02-2019

CORAM

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

W.P.No.344 of 2018

D.Jeyaram

... Petitioner

Vs

1. The Chief Secretary to Government,  
Public (Special A) Department,  
Secretariat,  
Chennai-9.

2. The Secretary to Government,  
Public (Special A) Department,  
Secretariat,  
Chennai-9.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents herein to promote the petitioner notionally as District Revenue Officer for the year 2015 with effect from 1.6.2016 and revise the petitioner's retirement benefits in the cadre of District Revenue Officer with all consequential service and monetary benefits.

For Petitioner : Mr.Ravi Shanmugam

For Respondents : Mr.A.N.Thambidurai,  
Special Government Pleader.

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सत्यमेव जयते  
O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to promote the writ petitioner notionally as District Revenue Office for the year 2015 with effect from 1.6.2016 and revise the writ petitioner's retirement benefits in the cadre of District Revenue Officer with all consequential service and monetary benefits.

2. The learned counsel for the writ petitioner states that the name of the writ petitioner was considered for promotion to the post of District Revenue Officer and his name was included in the panel dated 29.2.2016 for promotion to the post of District Revenue Officer.

3. The writ petitioner is fully qualified and eligible for promotion and he was waiting for his promotion order. However, the writ petitioner was not promoted as he was allowed to retire from service on 30.6.2016 on account of the fact that he attained the age of superannuation.

4. The learned counsel for the writ petitioner states that the writ petitioner's name was placed in Serial No.17 and upto Serial No.10, persons were already promoted before the date of retirement of the writ petitioner. However, no promotions were granted subsequently in between the writ petitioner attained the age of superannuation and allowed to retire from service on 30.6.2016.

5. The learned counsel for the writ petitioner states that when the vacancies are available, the competent authorities ought to have granted promotion to all the persons, who all are waiting in the panel. When the panel was prepared based on the ensuing vacancies, which are likely to be created, then, whenever vacancies are available, those persons are to be promoted with reference to the Rules in force. However, the name of the writ petitioner was not considered for promotion in spite of the fact that the vacancies were available. After the retirement of the writ petitioner, the other juniors were considered for promotion.

6. This Court is of an opinion that promotion can never be claimed as a matter of right. However, consideration for promotion is the fundamental right of an employee. Undoubtedly, the name of the writ petitioner has been considered for promotion with reference to the Rules in force and his name was included in the panel. For promotion to the post of District Revenue Officer, the grievance of the writ petitioner is that though the vacancies were available, he was not promoted and he attained the age of superannuation on 30.6.2016.

7. In view of the fact that promotion is not a right and mere inclusion of the name of the writ petitioner in the panel will not confer any legal right on him to claim promotion. In the event of granting promotion to the juniors prior to the date of retirement of the writ petitioner, the claim of the writ petitioner can be sustained and not otherwise.

8. In the present case on hand, admittedly, no such panel was prepared prior to the date of retirement of the writ petitioner and therefore, the writ petitioner has not raised any acceptable legal ground, so as to consider his claim. This apart, the administrative decision to fill up the proposed posts are prerogative of the Administrative Authorities and simply because the posts are vacant, the employees cannot claim promotion based on the availability of the vacancies.

9. This being the principles to be followed, the writ petitioner has not established any acceptable legal ground for the purpose of considering his case for granting the relief, as such, sought for in the present writ petition.

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

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Chief Secretary to Government,  
Public (Special A) Department,  
Secretariat,  
Chennai-9.
2. The Secretary to Government,  
Public (Special A) Department,  
Secretariat,  
Chennai-9.

+1 cc to Mr.Ravi Shanmugam, Advocate, S.R.No.9466

+1 cc to the Government Pleader, S.R.No.10259

MP(CO)  
SSM(22/02/2019).

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