

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.02.2019

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

W.P.No.1062 of 2018
and W.M.P.Nos.1281 & 1282 of 2018

G.Vedachalam

....Petitioner

Vs

1.The Principal Secretary to Government
Government of Tamil Nadu
(Industries Department),
Fort St.George, Chennai-9.

2.The Director of Sugar, No.690, Anna Salai
Nandanam, Chennai 600 035.

....Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Calling for the entire records pertaining to the impugned Government order G.O.93 dated 28.07.2017 appended to G.O.No.68 (M.I.C2) Department dated 01.03.2011 passed by the 1st respondent and quash the same insofar as it pertains to amendment-II Clause(II) means for Labour Welfare Officer as per qualification prescribed in the Tamil Nadu Factories (Welfare Officers) Rules 1953 in addition 15 years experiences as Regular employee (Non-Seasonal employee) in the co-operative and Public Sector Sugar Mills and within the age limit of 55 years.

For Petitioner : Mr.M.Dharanidharan

For Respondents: Mr.L.P.Shanmugasundaram
Special Government Pleader

O R D E R

The Government Order issued in G.O.No.93 dated 28.07.2017 appended to G.O.No.68 dated 01.03.2011, prescribing the maximum age limit of 55 years for promotion to the post of Labour Welfare Officer, is under challenge in the present writ petition.

2. Learned counsel for the petitioner states that the writ petitioner is now working as Sugarcane Assistant in the Sugar Mills. The writ petitioner is fully eligible and qualified for the post of Labour Welfare Officer as per the rules in force. However, the Government issued G.O.93 dated 28.07.2017,

prescribing the maximum age limit of 55 years as qualification for promotion to the post of Labour Welfare Officer. As the writ petitioner has crossed the age of 56 years, he was not considered to the post of promotion to the post of Labour Welfare Officer and thus the petitioner is constrained to move the present writ petition.

3. Promotion can never be claimed as a matter of right. Consideration for promotion is a fundamental right of an employee. All the employees, who are all eligible to be promoted shall be considered for promotion and the names shall be included in the panel for promotion. However, promotion per se cannot be claimed as a matter of right, as the promotions are to be granted strictly according to the rules in force. Admittedly, the prescription of the age of 55 years became a bar for the writ petitioner for getting promotion to the next higher post of Labour Welfare Officer. Prescription of maximum age limit for a post is the administrative prerogative of the competent authority and the said prescription cannot be questioned by the writ petitioner. The service rules as of now is confined to with reference to the post of Sugarcane Assistant, in which the petitioner is working. As far as the higher post of Labour Welfare Officer is concerned, the petitioner cannot have any right to question the age limit fixed by the Government.

4. Thus, this Court is of the opinion that the interpretation regarding the service rules are to be confined in respect of the post which the employees hold and not in respect of the promotional post, as the promotion can never be claimed as a matter of right. When the promotion is not a right, the prescription of maximum age limit and educational qualification to the higher post, cannot be taken as a ground for claiming exemption or regularisation or promotion. This being the legal principles to be followed, the very claim set out in this writ petition is devoid of merits and cannot be entertained on the ground that the petitioner is in the verge of his retirement. Therefore, the relief as sought for cannot be granted. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

KST

To

1.The Principal Secretary to Government
Government of Tamil Nadu (Industries Department),
Fort St.George, Chennai-9.

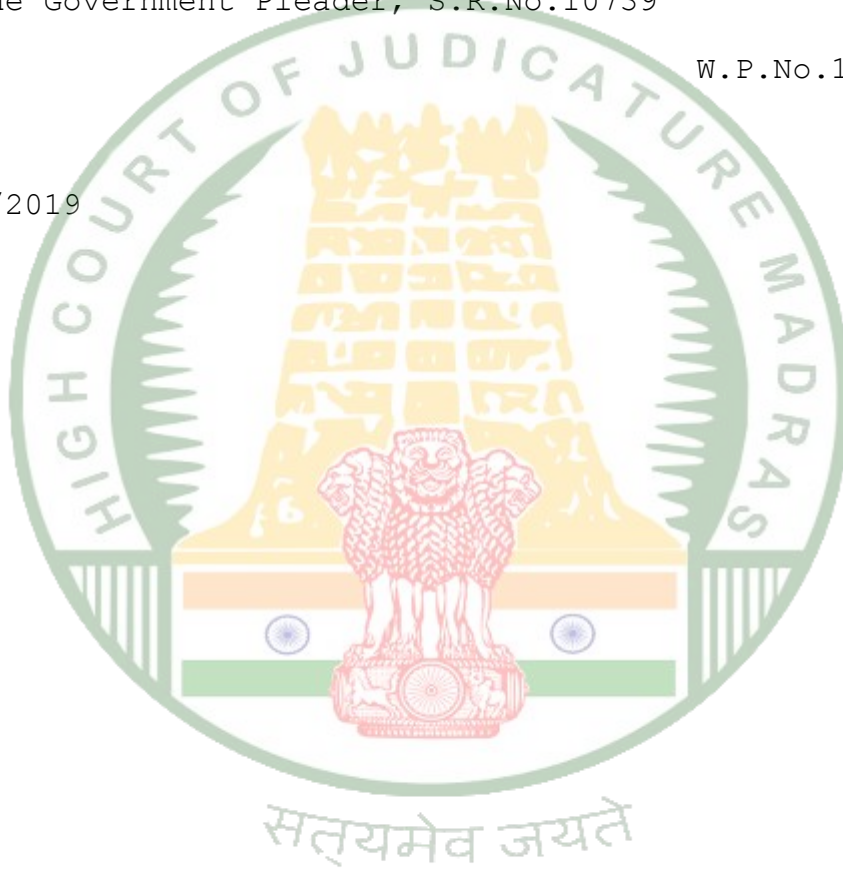
2.The Director of Sugar,
No.690, Anna Salai,
Nandanam, Chennai 600 035.

+lcc to Mr.M.Dharanidharan, Advocate, S.R.No.10501
+lcc to the Government Pleader, S.R.No.10739

W.P.No.1062 of 2018

CA(CO)

rrs 27/02/2019



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