



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD) No.14654 of 2015

and

M.P. (MD) No.1 of 2015

A.Abdul Kareem

... Petitioner

vs.

1.The Commissioner of Fisheries
Thenampattai, Chennai-6

2.Joint Director of Fisheries
Regional
166A, North Beach Road
Thoothukudi District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents to promote the petitioner as Superintendent with effect from 25.05.2012 by considering the representation of the petitioner dated 10.03.2015.

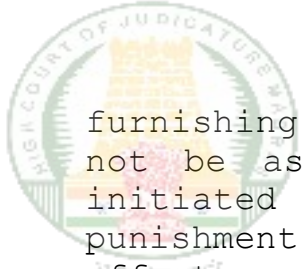
For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.D.Muruganandam
Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is for a direction to the respondents to promote the writ petitioner as Superintendent with effect from 25.05.2012, by considering his representation dated 10.03.2015.

2. The learned counsel appearing for the writ petitioner states that the writ petitioner was appointed, on 28.03.1984, as Junior Assistant on compassionate grounds. The writ petitioner was subsequently promoted to the post of Assistant-cum-Cashier. The next avenue for promotion is to the post of Superintendent.

3. The learned counsel for the writ petitioner further states that the writ petitioner is fully qualified for promotion to the post of Superintendent. However, a charge memo was issued to the writ petitioner on 08.04.2009 on certain allegations. The charges framed against the writ petitioner were that he had not handed over the files to the Assistant and due to the non-



furnishing of the files, the details available in the files could not be ascertained. The departmental disciplinary proceedings initiated against the writ petitioner ended with an order of punishment of stoppage of increment for six months with cumulative effect, on 07.09.2011.

4. This Court is of the considered opinion that as per the Government Orders in force, currency of punishment is bar for promotion. After expiry of the currency of punishment, the case of the writ petitioner is to be considered with reference to the rules in force.

5. Promotion *per se* can never be claimed as a matter of right. However, consideration for promotion is a fundamental right of an employee. Therefore, whenever preparation of panel is undertaken, the authorities competent are bound to consider all the names of the eligible candidates, who all are aspiring to secure promotion. This being the principles to be followed, in the present case on hand, the case of the writ petitioner during the relevant point of time was not considered on account of the currency of punishment. However, it is made clear that after expiry of the currency of punishment, the case of the writ petitioner is to be considered strictly in accordance with the promotion rules in force. It is not necessary that soon after completion of the currency of punishment, the candidate should be promoted. After completion of the currency of punishment, the candidate would become eligible for promotion and whenever the panel is prepared for promotion to the higher post, at that point of time, the names of all the eligible candidates, including the name of the petitioner, are to be considered. This being the factum, the case of the writ petitioner is to be considered with reference to the promotion rules in force.

6. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To:

1. The Commissioner of Fisheries, Thenampattai, Chennai-6.
2. The Joint Director of Fisheries, Regional, 166A, North Beach Road, Thoothukudi District.

+1cc to Mr. S.C. Herold Singh, Advocate, SR.No.75497

+1cc to the Spl. Govt. Pleader Sr.No.75409

krk

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