

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.No.11685 of 2012 AND
MP Nos.1&2 of 2012

P.Ramaswami

... Petitioner

Vs.

1.The Government of Tamilnadu
rep. By Secretary,
Department of Handlooms Handicrafts
Textiles and Khadi
Fort St.George, Chennai-600 009

2.The Director of Sericulture
Department of Serticulture
Salem-1

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order No.Na.KA-994/PA3/2011 dated 17.02.2011 issued by the 2nd respondent and quash the same as illegal, arbitrary and unconstitutional and consequently direct the respondents to promote the petitioner as Junior Inspector of Sericulture with effect from the date when the petitioner's junior G.Srinivasan was promoted, with due seniority, arrears and all other attendant benefits.

For Petitioner : Ms.R.Vaigai, Senior Counsel for
Ms.Anna Mathew

For Respondents: Mr.P.Chinnadurai, AGP

O R D E R

The petitioner was appointed as Practical Sericulturist being sponsored through District Employment Office on 13.09.1978. His services were regularised with effect from 01.04.1984. From then on he was stagnating in the same post. He was eligible to be promoted as Junior Inspector of Sericulture. Even though he made several representation, the respondent did not consider him for the promotion to the post of Junior Inspector Sericulture. While the matter stood thus, one G.Srinivasan who was regularised along with him on 01.04.1984, has approached this Court in W.P.No.13529 of 2006 for promotion

to the post of Junior Inspector of Sericulture. After considering various judgment of the Hon'ble Supreme Court this Court directed the respondents to promote him to the post of Junior Inspector of Sericulture by adopting recruitment by transfer and directed the exercise to be completed within a period of four weeks. Accordingly, the respondents have implemented the order in proceedings No.1235/A/07 dated 18.07.2007. Even after that the petitioner has made a representation to treat him on par with the said individual as he is identically placed and having been regularized on 01.04.1984 in the same post. However, by impugned proceedings No.Na.Ka.994/UA3/2011 dated 17.02.2011 the 2nd respondent has sent a reply that the petitioner is fully eligible to be promoted as Junior Inspector of Sericulture. But since he attained the age of superannuation he cannot be promoted to the said post. Challenging that order, the petitioner is before this Court.

2. The Government has filed a detailed counter. The sum and substance is reduced in two columns.

Thiru P.Ramasami	Thiru G.Srinivasan
The petitioner was initially appointed on 30.9.1978 to contingency establishment as Practical Sericulturist. The petitioner was brought into regular establishment with effect from 1.4.1984 in the pre-revised time scale of pay of Rs.200-5-300. The petitioner requested in his representation dated 08.01.2011 to promote him, on par with Thiru G.Srinivaan, Junior Inspector of Sericulture, but in the petitioner in this case was over aged and already reached his superannuation on 30.11.2010. Therefore the belated prayer submitted by the petitioner was rejected.	Thiru G.Srnivasan was initially appointed in contingency establishment as Practical Sericulturist with effect from 01.03.1976. He was brought into regular establishment with effect from 01.04.1984 in the pre-revised time scale of pay of Rs.200-5-300. He filed a case O.a.No.5433/92 in the Hon'ble TNAT. Later the case transferred to the file of / high Court and re-numbered as W.P.No.13529 of 2006. In order dated 29.09.2006 in W.P.No.13529 of 2006 the Hon'ble High Court of Judicaure at Madras have directed to consider the claim of the petitioner for his promoting him within a period of four weeks from the date of receipt of a copy of the order. Accordingly he was appointed as Junior Inspector of Sericulture from 19.07.2007 and retired on 31.05.2013.

The reason for non promotion to the post of Junior Inspector of Sericulture is that the petitioner has attained the age of superannuation. Other than this no other reason is stated. From the reading of the counter, it is very clear that the petitioner is long due for promotion to the post of Junior Inspector of Sericulture. Having attained all the qualification required for the post, but for the administrative lapse could have been promoted. Atleast from the year 2007 on par with G.Srinivasan. An individual should not be deprived of his service benefits on account of administrative lethargy. Hence, considering the eligibility condition of the petitioner and the impugned order conceding that he is eligible to be appointed, I direct the respondents to promote the petitioner with effect from 19.07.2007 on the date on which his colleague G.Srinivasan is promoted on notional basis and to disburse all other attendant benefits within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition is allowed .No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government of Tamilnadu
Department of Handlooms Handicrafts
Textiles and Khadi
Fort St.George, Chennai-600 009

2.The Director of Sericulture
Department of Serticulture
Salem-1

+1cc to Mr.Anna Mathew, Advocate, S.R.No. 9824
+1cc to the Government Pleader, S.R.No. 10430

W.P.No.11685 of 2012

LN(CO)
GN(25/09/2020)