

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.11.2020

C O R A M

The HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.9588 of 2011
(Through Video Conferencing)

S.Arumugam

.. Petitioner

.vs.

The Director of Fisheries,
Administrative Block,
Teynampet, Chennai-18.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.92/M.2/2011 dated 09.02.2011 on the file of the respondent and to quash the same and may also be pleased to consequently direct the respondent to regularize the Promotional service of the Petitioner and to revise his pension benefits from 14.08.2002; or to pay expatiation compensation of Rs.10,00,000/-.

For Petitioner : Dr.G.Krishnamurthy

For Respondent : Mr.G.K.Muthukumar, Spl. G.P.

O R D E R

I heard the learned counsel for the Petitioner and the learned Special Government Pleader for the Respondent.

2. The dispute raised lies within a narrow compass. The challenge is to the order dated 09.02.2011 rejecting the request of the Petitioner for regularizing his promotion and to grant pension benefits from 14.08.2002. The learned counsel for the Petitioner submits that he is entitled to promotion from 14.08.2002 and that the same was denied to him largely on account of his suspension in connection with a departmental proceeding. The said suspension came to be revoked subsequently and, therefore, the Petitioner is entitled to the relief claimed.

3. On the contrary, the learned Special Government Pleader submits that the exemption from the requirement of passing the accounts test, which was a pre-requisite for the promotion, came to be granted only on 17.11.2008 and, therefore, the petitioner is not entitled to the relief claimed.

4. Upon considering the submissions of the learned counsel for the respective parties and examining the relevant materials on record, it appears that exemption is permissible from the requirement of the accounts test provided the employee concerned has completed 53 years of age and attempted the said test not less than five times. As regards the Petitioner, these requirements were satisfied on 14.07.2005. However, he was placed under suspension between 28.09.2005 and 06.05.2007. Consequently, the benefit of exemption was extended to him only on 17.11.2008. Given the fact that the Petitioner satisfied the requirements for the exemption from 2005 onwards, I am of the view that he should be given the benefit of notional promotion from 29.08.2005 which is the date when he was placed under suspension. As regards monetary benefits, the interest of justice would be satisfied if such benefits are extended to him from the date of the exemption order in 2008.

5. For the reasons aforesaid, the impugned order dated 09.02.2011 is hereby quashed and the writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

To

The Director of Fisheries,
Administrative Block,
Teynampet, Chennai-18.

+1cc to Dr.G.Krihnamurthy, Advocate, Sr.No.37293
+1cc to the Government Pleader, Sr.No.37771

Writ Petition No.9588 of 2011

nrl (co)
rr ii (08/12/2020)