

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.677 of 2020

S. Sumathy

.. Appellant

-Vs-

1. The Registrar General,
High Court, Madras - 600 104.
 2. The State of Tamil Nadu
Represented by:
The Principal Secretary to Government,
Home (Court-VI) Department,
Secretariat, Chennai
 3. The Director of Prosecution,
O/o The Directorate of Prosecution,
2nd Floor, Tamil Nadu Slu, Clearance Board,
5, Kamarajar Salai, Chennai -600 005
- ... Respondents

Appeal filed under Clause 15 of the Letters patent against the order dated 25.02.2020 passed in 14856 of 2017 on the file of this Court.

Prayer in WP: Praying for issuance of Writ of mandamus to direct the respondents to forthwith grant national promotion to the petitioner as Joint Director of Prosecution as per the seniority list in G.O.Ms.No.36, Home (Courts VI) Department dated 20.01.2016 with all attendant benefits.

For Appellant : Ms.AL. Ganthimathi
For R.1 : Mr.C.T. Mohan

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

Heard Ms.AL. Ganthimathi, learned counsel for the appellant and Mr.C.T. Mohan, learned counsel for the first respondent.

2. The appellant, after having attained superannuation, filed the writ petition giving rise to this appeal, complaining that she was empanelled for being promoted as Joint Director, yet, inspite of the empanelment, she was deprived of actual promotion and therefore, she should be extended the benefit of notional promotion as well as consequential benefits.

3. The learned Single Judge, relying on the Division Bench of the Delhi High Court in W.P.No.2969 of 2012, dated 24.05.2015, came to the conclusion that the appellant cannot be extended the said benefit keeping in view the fact that the appellant had retired during the process of empanellment and even otherwise, it was not a case of gross discrimination or invidious discrimination, wherein, any person junior to the appellant had been extended the said benefit.

4. Having considered the submissions raised, we find that the appellant having been empanelled, ought to have approached this Court within a reasonable time before her retirement for the enforcement of her right for consideration of promotion. Promotion by itself is not a fundamental right, but, the right to be considered for promotion has been acknowledged to be an enforceable right.

5. The appellant appears to have waited in the hope that the respondents would take up the matter expeditiously, but, unfortunately, in the present case, in spite of being shortlisted for consideration, the matter could not be processed before the retirement of the appellant.

6. In the wake of the aforesaid facts, no relief can be granted and further, we do not find any such Rule that may extend the benefit of notional promotion even after retirement.

7. We do not find this case to be fit calling for any interference with the judgment of the learned Single Judge.

The appeal is accordingly consigned to records. No costs.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

1. The Registrar General,
High Court,
Madras - 600 104.

3. The Director of Prosecution,
O/o The Directorate of Prosecution,
2nd Floor, Tamil Nadu Slu, Clearance Board,
5, Kamarajar Salai,
Chennai -600 005

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Directorate of Prosecution,
Tamil Nadu Slu, Clearance Board,
Rajaraj Salai,
Chennai - 600 005

S. AL. Ganthimathi, Advocate, Sr.No.28748

W.A.No.

09/2020)



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