



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.1584 of 2014

M.Sivapragasam

... Petitioner

-Vs-

1.The Joint Director (Administration)
Directorate of Family Welfare,
359, Anna Salai,
Teynampet, Chennai 600 006.

2.The Deputy Director,
Department of Medical and
Rural Health Services and Family Welfare,
Virudhunagar.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order L.Dis Ref.No.3559/FW/E3/13 passed by the first respondent, dated 21.10.2013 quash the same and direct the respondent to advance the selection Grade in the post of Block Extension Educator from 11.03.1997 and disburse the arrears and all statutory benefits and consequential service benefits within time frame as may be fixed by this Court.

For Petitioner : Mr.S.Alagu Sundar

For Respondents : Mr.D.Muruganandham
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to quash the order of rejection rejecting the claim of the writ petitioner for grant of Selection Grade in the post of Block Extension Educator from 11.03.1997 and disburse the arrears and all statutory benefits and consequential service benefits.

2.The petitioner was appointed as Computer on 27.08.1997 and thereafter, awarded Selection Grade in the post of Computer, on completion of ten years of service. Before completion of twenty years of service, on 12.03.1997, the petitioner was promoted to the post of Block Extension Educator and posted as Government Primary Health Centre, Kariyapatty, Virudhunagar District. The petitioner retired from service on 30.06.2005. Now the petitioner claims that, he is entitled for advancement of Selection Grade in the post of



Block Extension Educator. The relief as such sought for itself is misconceived. In view of the fact that the concept of Selection Grade and Special Grade is provided, pursuant to the recommendations of the Pay Commission, if there is no promotion avenues in a particular post and there is a stagnation. In the present case, the writ petitioner was promoted and therefore, he cannot be awarded the Selection Grade in the promotional post. The said factual position is elaborated in Paragraph No.7 of the counter affidavit, which is extracted hereunder:-

".....7.I respectfully state that it is trite law in service jurisprudence that the selection grade/special grade would be conferred on an employee only when there are no promotion avenues. But in the instant case the petitioner has been promoted hence, he cannot claim selection grade in the promotional post. I submit that the scale of pay in the selection grade in the Block Health Statistician (5000-150-8000) and that of the ordinary grade in Block Extension Educator (5300-150-8300) is different and the scale of pay of Block Extension Educator is higher than that of the Selection Grade in Block Health Statistician. Hence the service rendered by the petitioner in the lower post cannot be taken into account for the purpose of granting selection grade in the promotion post. Hence, considering all the facts the first respondent has passed the order dated 21.10.2013 and there is no illegality in passing the same. I submit that admittedly the petitioner has also not completed 10 years of service in the promotion post and hence selection grade cannot be granted to any extend. Hence, the instant writ petition has to be dismissed."

3.This apart, the writ petitioner slept over his right for many years and now, seeks the relief for granting Selection Grade in the promotional post, the writ petition is dismissed on the ground of laches. This being the factum established, the writ petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)

sjj



To

1.The Joint Director (Administration)
Directorate of Family Welfare,
359, Anna Salai,
Teynampet, Chennai 600 006.

2.The Deputy Director,
Department of Medical and
Rural Health Services and Family Welfare,
Virudhunagar.

+1 CC to M/s.GP (SR-21758[F] dated 10/11/2020)

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CK(CO)
AP(23/11/2020) 3P 4C