

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.32298 of 2014

G.Jayaprakasam

... Petitioner

Vs

1. The Secretary,
Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.
2. The Secretary,
The Director of Public Health and Preventive Medicine,
Chennai - 600 006. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to give retrospective effect to the petitioner's promotion as Assistant Water Analyst from 19.11.2008 by including his name in the panel for the year 2008-09 and grant consequential benefits including higher pensionary benefits.

For Petitioner : Mr.J.Muthukumaran

For Respondents : Mr.J.Ramesh, AGP

ORDER

Heard both sides and perused the materials available on record.

2.The prayer made in this writ petition is to direct the respondents to give retrospective effect to the petitioner's promotion as Assistant Water Analyst from 19.11.2008 by including his name in the panel for the year 2008-09 and grant consequential benefits.

3.It is the grievance of the petitioner that though vacancy of Assistant Water Analyst arose on 19.11.2008 and he was fully qualified and eligible for promotion, he was not considered for

appointment in the existing vacancy. Though this Court by order dated 05.06.2012 in WP.No.12522 of 2012, directed the respondents to consider the claim of the petitioner to include his name in the panel for 2008-09, his name was included only in the promotional panel for 2011-12 and he was promoted and got superannuation on the same day i.e., on 30.04.2013. Thus, according to the petitioner, without deriving any benefit of promotion, he retired from service. Therefore, this writ petition.

4. Upon notice, the respondents filed a detailed counter affidavit, inter alia stating that for the administrative reason, the petitioner was given promotion belatedly and that, as per the relevant provisions of law, his pension was calculated and there was no financial loss to the petitioner. For better appreciation, paragraphs 8 and 16 of the counter affidavit are reproduced hereunder:

"8. It is submitted that based on the estimate of vacancy approved as nine for the year 2011-12, the panel proposal was sent to the Government by the second respondent in his letter No.105271/E1/S4/09/S2 dated 14.09.2011. The name of the petitioner herein was recommended for promotion for the post of Assistant Water Analyst. As the said post comes under the purview of the Tamil Nadu Public Service Commission, the panel proposal has been placed before the Departmental Promotion Committee of the Tamil Nadu Public Service Commission. After getting the concurrence of the Departmental Promotion Committee of the Tamil Nadu Public Service Commission, the Government approved the panel for the post of Assistant Water Analyst vide G.O (D)No.404 Health and Family Welfare (L2) Department dated 30.04.2013. Accordingly, the petitioner herein was promoted as Assistant Water Analyst in Tamil Nadu Public Health Service and posted at Water Analysis Laboratory, Guindy, Chennai by the second respondent herein in his Proc.R.No.105271/E1/2011-S4 dated 30.04.2013 and he joined duty as Assistant Water Analyst on 30.04.2013 and permitted to retire from service on attaining the age of superannuation on the same day i.e., on 30.04.2013 in the post of Assistant Water Analyst."

"16. It is respectfully submitted that the request of the writ petitioner to give retrospective promotion as Assistant Water Analyst by including his name in the panel for the year 2008-09 and to grant consequential benefits including higher pensionary benefits is not feasible for compliance as per rules in force."

5. In the light of the aforesaid averments made in the counter affidavit filed by the respondents, the relief sought in

this writ petition cannot be considered by this Court. Hence, leaving it open to the petitioner to approach the authority concerned for any other eligible notional benefits, this writ petition stands closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

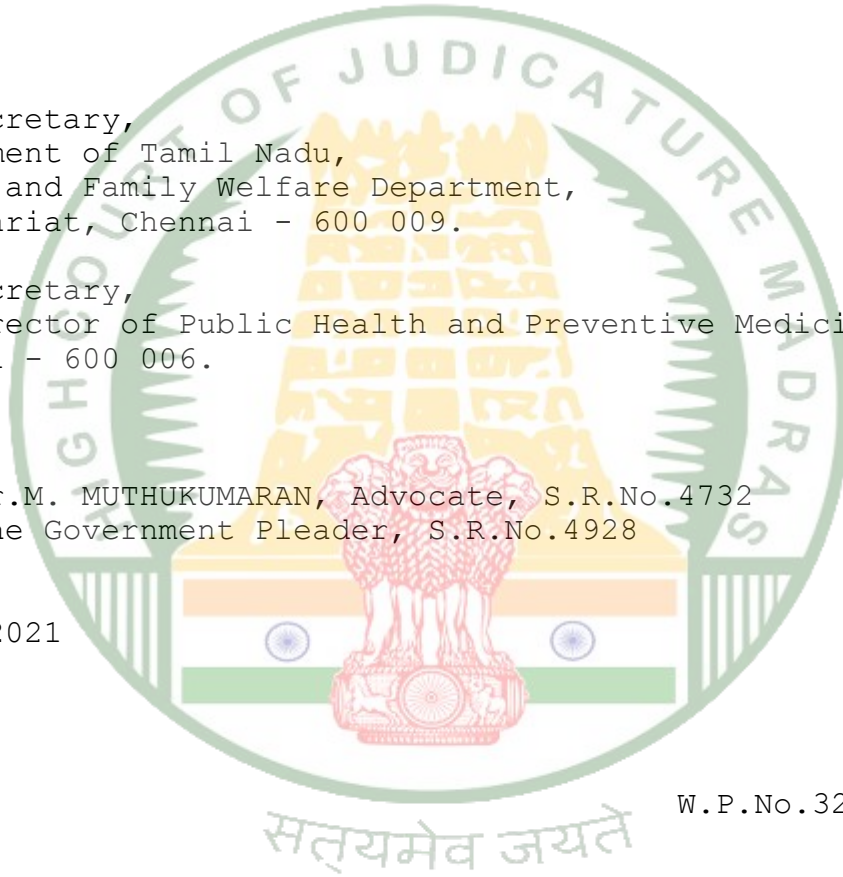
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To

1. The Secretary,
Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.
2. The Secretary,
The Director of Public Health and Preventive Medicine,
Chennai - 600 006.

+1cc to Mr.M. MUTHUKUMARAN, Advocate, S.R.No.4732
+1cc to the Government Pleader, S.R.No.4928

MG(CO)
SM/01/03/2021



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