IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.439 of 2019

R.Charles Devakumar ... Petitioner

-Vs-

1. The State of Tamil Nadu
   Rep. by its Principal Secretary to Government
   Commercial Taxes and Registration Department
   Secretariat, Fort St.George,
   Chennai-600 009

2. The Additional chief Secretary /
   Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk, Chennai-600 005.

3. The Joint Commissioner (ST)
   Enforcement- II,Greams Road,
   Chennai-600 006. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus, directing the Respondents promote the petitioner to the post of Deputy commercial Tax officer/ Deputy State Tax Officer based on 2017 panel as on 1.3.2017 as per the proposal forwarded by Deputy Commissioner (CT), Enforcement (East), Chennai-6 in Rc.299 /2017/A2 dated 1.6.2017 with all consequential and other attendant benefits, by considering the representations submitted by the petitioner dated 4.5.2018, 10.9.2018 and 26.12.2018.

For Petitioner : Mr.G.Sankaran

For Respondents : K.Vasantha Maley,
Government Advocate

ORDER

The relief sought for in the present writ petition is to direct the respondents to promote the petitioner to the post of Deputy Commercial Tax Officer/ Deputy State Tax Officer, based on 2017 panel as on 01.03.2017 as per the proposal forwarded by Deputy Commissioner (CT), Enforcement (East), Chennai-6 in Rc.299 /2017/A2 dated 01.06.2017 with all consequential and other attendant benefits, by considering the representations submitted by the petitioner dated 04.05.2018, 10.09.2018 and 26.12.2018.

2. The petitioner states that he was initially appointed as a Record Clerk in Commercial Tax Department on 23.11.1988 and thereafter, promoted to the post of Junior Assistant on 12.05.1999. The petitioner was further promoted to the post of Assistant on 31.08.2007 and he got retired from service on 31.12.2018 on attaining the age of superannuation. The next avenue for promotion to the petitioner was Deputy Commercial Tax Officer and he was not qualified for the same up

to the year 2017. Thus, the petitioner was found not eligible for promotion since he cleared all the prescribed requisite departmental tests in February of 2017.

3. The panel prepared for promotion and appointment to the post of Deputy Commercial Tax Officer by transfer of service would not be operated, in view of the fact that W.P.(MD)No.4963 of 2018 was filed challenging the appointment of certain transfered Assistants by direct recruitment and the High Court granted interim stay in the said writ petition. Another writ petition was filed by one Mr.N.S.Manivannan and others in W.P.No.12708 of 2018 before the Principal Bench of the High Court of Madras and another stay was also granted and the said stay continued till the retirement of the writ petitioner and the promotion list was not acted upon.

4. At the outset, it is contended that the panel was not acted upon and none of the Junior to the petitioner was promoted overlooking the seniority and the petitioner reached the age of superannuation and retired from service on 31.12.2018 and therefore, the case of the writ petitioner was not considered. However, the panel for promotion was drawn after

the retirement of the writ petitioner on 25.07.2019 and the name of the petitioner was not included.

5. Promotion per se cannot be claimed as a right. Consideration for promotion alone is a right for an employee. In the present case, the petitioner became eligible for promotion only in the year 2017, since he passed the requisite departmental tests in February 2017. In the year 2018, the department could not able to finalize the panel in view of the interim stay granted by the High Court and the panel was published only in the year 2019. However, the petitioner retired from service in the year 2018 and none of his junior was promoted when the petitioner was in service and thus, there is no reason to grant retrospective promotion to the writ petitioner.

6. With these observations, this writ petition stands dismissed. There shall be no order as to costs.

07.11.2022

Index : Yes
Speaking order
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To

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S.M.SUBRAMANIAM.J.,

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