



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.20600 of 2010

R.Kannan

...Petitioner

Versus

1. The Director of Public Health & Preventive Medicine,
D.M.S Compound,
Chennai - 6.

2. The Secretary to Government,
Health & Family Welfare Department,
Fort St. George,
Chennai - 9.

...Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records in pursuant to the impugned order of cancellation issued by the first respondent in proceeding R.No.97931/MP-1/S1/2005, dated 23.07.10 and quash the same.

For Petitioner : Party in Person No Appearance

For Respondents: Ms.E. Renganayaki,
Additional Govt. Pleader.

O R D E R

Since the Party-in-Person is appearing for himself in this case, even though he is absent today, the matter is taken up for disposal on merits considering his old age.

2.The petitioner was appointed as Maintenance Worker in Malaria Eradication Maintenance Phase, with effect from 24.06.1966 and retired from the service in the year 2007. While the petitioner was in service, he was overlooked for promotion and was later granted promotion but not the benefits and therefore, he approached the Tamil Nadu Administrative Tribunal by way of O.A.No.2889 of 1994, which was dismissed.



3.Challenging the said order the petitioner approached this Court by way of W.P.No.25134 of 2005 and by order dated 22.01.2006, the Division Bench of this Court, found that since the petitioner is found to be eligible for promotion and that he was overlooked without any reason, ordered that the Tribunal should have granted the consequential benefits also and accordingly ordered the Writ Petition and based on the said order retrospective promotion was granted to the petitioner to the post of Multi Purpose Health Supervisor with all benefits.

4.However, the Multi Purpose Health Supervisors, who were reverted on account of retrospective promotion of the petitioner and similarly situated persons, had approached the Tamil Nadu Administrative Tribunal in O.A.No.1764 of 1998, therefore, the Division Bench of this Court observed in the last paragraph of the order that the relief granted is subject to the outcome of O.A.No.1764 of 1998.

5.The said observation becomes necessary, because, in the event, the said original application being allowed and those Multi Purpose Health Supervisors, who were reverted become successful again, the benefits which are given to the petitioner may have to be revised as per the decision of the Tribunal. Further, the said O.A.No.1764 of 1998 was transferred to the file of this Court pursuant to the abolition of Tribunal. It was taken on file as W.P.No.36155 of 2006 and by the time, the matter came up for hearing on 17.08.2009, the petitioner's association, which had filed the original application reported that the relief prayed for has become infructuous and recording the said statement, the said Writ Petition was dismissed as having become infructuous.

6.On the basis of the said order, three years after the Superannuation of the petitioner, the impugned order dated 23.07.2010 was passed stating that in view of the dismissal of the said O.A.No.1764 of 1998, the retrospective promotion issued to the petitioner was cancelled. The said impugned order, firstly, is passed without any opportunity to the petitioner. Secondly, in the meanwhile Master and Servant relationship between the petitioner and the respondent stood lapsed in view of the superannuation of the petitioner. Thirdly, on the face of it, it is observed as stated supra, the retrospective promotion was made subject to the result of O.A.No.1764 of 1998, because, the persons aggrieved by the retrospective promotion had challenged the same upon their consequent reversion.

7.Therefore, only in the event of allowing of the application, any further action is warranted and merely because of the Writ Petition is dismissed as infructuous the same does not give any cause of action or any right to cancel the



promotion and benefits given to the petitioner, which are rightly granted to him in accordance with the seniority. Therefore, the Writ Petition is liable to succeed and it is ordered on the following terms:-

- i) The impugned order dated 23.07.2010 is quashed.
- ii) If any monetary or other benefits are withheld/recovered on account of the impugned order the same shall be released to the petitioner within a period of three months from the date of receipt of a copy of this order.
- iii) There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

klt

To

1. The Director of Public Health & Preventive Medicine,
D.M.S Compound,
Chennai - 6.
2. The Secretary to Government,
Health & Family Welfare Department,
Fort St. George,
Chennai - 9.

+1cc to the Government Pleader, S.R.No.28626

W.P.No.20600 of 2010

GMR(CO)
RGA(06/05/2022)