

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.NO.6208 OF 2015

S.Mohandass

... Petitioner

Vs.

1. The Government of Tamil Nadu,
represented by its Secretary,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai 600 009.

2. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai - 600 003.

3. Dr.Guhananandam

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents herein to pass an order of promotion promoting the petitioner as Chief Vector Control Officer with retrospective effect from 01.05.2007 and consequently further promote the petitioner as Zonal Officer with effect from 01.05.2008 with all other monetary and other attendant benefits including enhancement in the pensionary benefits of the petitioner.

For Petitioner	: Mr.K.Raja
For R1	: Ms.S.Anitha
	Special Government Pleader
For R2 and R3	: No Appearance

ORDER

The relief sought for in the present writ petition is to direct the respondents to pass an order of promotion, promoting the petitioner as Chief Vector Control Officer with retrospective effect from 01.05.2007 and consequently, promote

the petitioner to the Post of Zonal Officer with effect from 01.05.2008 with all monetary and other consequential service benefits.

2. The writ petitioner was appointed as Entomological Assistant in the year 1982. Thereafter, he was promoted as Senior Entomologist during the year 1991 and to the Post of Chief Vector Control Officer on 25.08.2008 and thereafter, reached the age of Superannuation and retired from service on 31.10.2009. The writ petition was filed, after six years from the date of retirement of the writ petitioner.

3. The grievances of the writ petitioner is that as per Section 87 of the Chennai City Municipal Corporation Act, three months time is contemplated for filling up the post of Chief Vector Control Officer and despite the fact that the said post became vacant on 01.02.2007, the petitioner was not considered for promotion to the post of Chief Vector Control Officer. Contrarily, some other person was appointed in violation of the rules. The writ petitioner filed writ petition in W.P.No.24313 of 2007 and pursuant to the order of interim stay granted, the case of the writ petitioner was considered and he was promoted to the post of Chief Vector Control Officer on 25.08.2008. Therefore, the learned counsel for the petitioner reiterated that the petitioner is entitled for retrospective promotion to the post of Chief Vector Control Officer from 01.02.2007 onwards.

4. It is further contended that the petitioner is eligible for further promotion to the post of Zonal Officer. Though the Government order issued in G.O.Ms.No.291, Municipal Administration and Water Supply (MC-3) Department dated 12.11.1996 does not specify the Post of Chief Vector Control Officer as Feeder category for promotion to the Post of Zonal Officer, the Post of Additional Health Officer is equivalent to that of the Chief Vector Control Officer and therefore, the petitioner is also eligible for promotion to the Post of Zonal Officer and the said promotion was also not given to the writ petitioner. Thus, the relief sought for in the present writ petition is to be considered.

5. This Court is of the considered opinion that admittedly, the Post of Chief Vector Control Officer has not been stipulated as Feeder category for promotion to the Post of Zonal Officer. Question of equivalence cannot be decided by this at this length of time as the petitioner reached the age of Superannuation. With reference to the retrospective promotion, it is not in dispute that the writ petitioner was promoted to the Post of Chief Vector Control Officer from 25.08.2008 onwards. The date on which, the post became vacant, another officer was appointed within a period of three months. Therefore, the respondent had

complied with the provisions under Section 87 of the Chennai City Municipal Corporation Act. In view of the fact that the writ petitioner challenged the said promotion granted to the other person, the said order was cancelled and the petitioner was promoted to the Post of Chief Vector Control Officer on 25.08.2008. Therefore, all the benefits attached to the Post of Chief Vector Control Officer was granted to the Incumbent, who was holding the post during the relevant point of time.

6. The petitioner was actually promoted as Chief Vector Control Officer on 25.08.2008 and performing his duties attached to the Post of Chief Vector Control Officer and therefore, he is entitled for all benefits from the date on which, he was promoted to the post of Chief Vector Control Officer.

7. Though the vacancy aroused on 01.02.2007, the petitioner cannot claim the benefits from the said date as the respondents appointed the other person and the other person also got the benefits attached to the said post.

8. In this regard, the petitioner admittedly was not holding the post of Chief Vector Control Officer from 01.02.2007 to 24.08.2008 as he was promoted only on 25.08.2008. That apart, the petitioner reached the age of Superannuation on 31.10.2009 and he filed the writ petition in the year 2015, after a lapse of six years from the date of his retirement. Even at the time of filing of the writ petition, the petitioner was aged about 63 years and now, he would be around 70 years.

9. Under these circumstances, the claim of the writ petitioner for retrospective promotion is not supported with any acceptable ground and thus, the writ petition is devoid of merits and stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kak/jeni

To

1. The Secretary,
The Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai 600 009.

2. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai - 600 003.

+1cc to Mr.K.Raja, Advocate, S.R.No.39184

W.P.No.6208 of 2015

VG II (CO)
PM/25/07/2022