IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.5564 OF 2014

C.Sadanandan ...Petitioner

Vs.

The Commissioner of Commercial Taxes,
Chepauk,
Chennai - 600 005. ...Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order bearing No.P1/318/2011 dated 08.5.2013 on the file of the respondent and consequently direct the respondent to consider the inclusion of petitioner's name in the seniority list for the year 2011 bearing proc.No.P1/318/2011 dated 08.05.2013 for post of CTO as Sl.No.136A.

For Petitioner : Mr.S.Subha Mohan
For Mr.S.Siva Shanmugam

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The order dated 08.05.2013, declining the request of the petitioner for inclusion of his name in the temporary list of Commercial Tax Officer for further promotion is under challenge in the present writ petition.

2. The writ petitioner was holding the Post of Assistant Commercial Tax Officer and the next avenue for promotion is Commercial Tax Officer.

3. The learned counsel for the petitioner made a submission that the petitioner is Senior in the Seniority list and the other juniors were promoted as Commercial Tax Officer and therefore, his name is also to be included in the approved panel of persons fit for promotion to the Post of Commercial Tax Officer.

4. The learned Additional Government Pleader appearing on behalf of the respondents made a submission that the petitioner attained the age of superannuation and allowed to retire from service on 30.06.2011 and by the time, the panel was not finalized and the juniors to the writ petitioner in the seniority list was not promoted. However, those juniors were promoted thereafter, more specifically, after the retirement of the petitioner and thus, the writ petition is to be rejected.

5. Promotion perse cannot be claimed as a matter of right. However, consideration for promotion is a fundamental right of an employee. Eligible employees, who all are aspiring to secure promotion in accordance with Rules are to be considered at the time of preparation of panel by the competent authority. If any administrative decision is taken to fill up the promotional post, then the names of all the eligible persons in the order of seniority are to be considered based on their eligibility and in consonance with the rules in force. In the present case, the petitioner was holding the post of Assistant Commercial Tax Officer and the promotional post is Commercial Tax Officer. However, even before finalizing the panel of persons fit for promotion to the Post of Commercial Tax Officer, the petitioner reached the age of superannuation and allowed to retire from service on 30.06.2011.

6. This being the factum, the claim of the writ petitioner for inclusion of his name would not arise and accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

kak

To

The Commissioner of Commercial Taxes,
Chepauk,
Chennai - 600 005.

+1cc to the Government Pleader Sr.No.33223

W.P.No.5564 of 2014

MT(CO)
RVM(16/06/2022)