



W.P.No.12513 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12513 of 2014 &
M.P.No.1 of 2014

K.Lloyd Chandra

...Petitioner

..Vs..

1.The Secretary to Government,
Home (Police II) Department,
Fort St. George, Chennai 9.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in connection with the impugned order passed by him in RC.No.158357/GBVII(3)/2013 dt 13.11.2013 and quash the same and direct the respondents to consider the claim of the petitioner for promotion as Additional Superintendent of Police and promote him as Additional Superintendent of Police notionally for the year 2012-13 and grant him all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkataramani (Senior Advocate)



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for Mr.M.Muthuppan

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to to consider the claim of the petitioner for promotion as Additional Superintendent of Police and promote him as Additional Superintendent of Police notionally for the year 2012-13 and grant him all consequential service and monetary benefits.

2. Promotion *per se* cannot be claimed as a matter of absolute right. However, consideration for promotion is a Fundamental Right of an employee. Thus, promotion cannot be claimed merely on the ground that there was an administrative delay on the part of the employer for preparation of panel or its publication. Whenever the process of promotion is under taken by the competent authorities after taking an administrative decision to fill up the post, which have the names of all the eligible officials who are all awaiting for promotion in the order of seniority, are to be considered in accordance with the Rules in force.



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3. This being the principles to be followed, the case on hand is that the petitioner was allowed to retire from the service before publication of the panel for promotion to the post of Additional Superintendent of Police. No doubt, the writ petition was pending during the relevant point of time and an interim stay was granted and stay was subsequently vacated and the matter went upto Hon'ble Supreme Court of India and thereafter there was a delay of one year in publication of panel.

4. When the filling up of post and preparation of panel is administrative prerogative of the competent authorities, an employee cannot claim as a matter of right regarding such administrative decisions to be taken by way of policy. Therefore, only if a decision is taken to fill up the higher post and if the panel is prepared, the names of eligible employees are to be considered. This being the right conferred, an employee cannot claim that there was a delay in preparation of panel. Such a right is not contemplated and therefore the petitioner cannot plead that there was an administrative delay in publication of panel and because of such delay, he lost his opportunity



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for the post of Additional Superintendent of Police.

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5. Admittedly, the petitioner reached his age of superannuation and retired from service on 31.07.2013, the panel was published after his retirement, even in case the panel was issued and the promotion was also not granted, then also the petitioner cannot claim promotion as a matter of right. If any one of his Junior is promoted during his service, then the petitioner is subject to claim notional promotion.

6. The case on hand reveals that the petitioner reached age of superannuation even before issuing the order of promotion to any one of the junior and therefore the petitioner is not entitled to get any relief as such sought for and consequently, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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mrm/psa
Index: Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order

To

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