



WEB COPY

W.P.No.7837 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 7837 of 2017

S. Sundaran

... Petitioner

Vs.

1. The State represented by
its Secretary, Government of Tamil Nadu,
Rural Development & Panchayat Raj Department,
Secretariat,
Chennai – 600 009.
2. The Director of Rural Development,
Panagal Building, Saidapet,
Chennai – 600 015.
3. The District Collector,
The Nilgiris District,
The Nilgiris.
4. The Personal Assistant to
District Collector (PD)
office of the District Collector,
Ootacamund, The Nilgiris District.

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, relating to the proceedings of the fourth respondent issued in Na.Ka.D2.No.31 131/2012 dated 17.07.2015 and quash the same and consequently direct the respondents to promote the petitioner to the post of Junior Assistant retrospectively from the year 2004 based on the proposal forwarded by the third respondent in Na.Ka.No.D2 No. 31131/2012 dated 23.11.2012 with all consequential and other attendant benefits including arrears of salary.



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For Petitioner
For Respondents

: Mr. A.S. Palanisamy
: Mrs. E. Indumathi
Government Advocate

ORDER

Promotion per se cannot be claimed as an absolute right. However, consideration for promotion is a fundamental right of an employee. Thus, the question of claiming promotion would arise only in the event of taking an administrative decision by the competent authority to fill up the promotional post and not otherwise.

2. Mere possessing the educational qualification and other qualifications would not confer any right on the employee to claim promotion to the higher post. At the time of preparation of panel, the names of all the employees, who are all aspiring to secure promotions are to be considered in accordance with the rules in force and in the order of seniority. This being the principles to be followed, mere possessing of educational qualification cannot be considered as a ground for grant of promotion or otherwise. In the present case, the petitioner was holding the post of Office Assistant, his name was included in the list of seniority under the 10 % quota allotted for the Group 4 employees for the appointment to



the post of junior assistant by way of transfer of service. Since the vacancies were not available or the authorities have not filled the vacancies, the case of the petitioner was not considered for promotion. Meanwhile, the petitioner reached the age of superannuation and retired from service on 31.03.2017. Therefore, the claim of the petitioner for retrospective promotion, in the absence of any illegality or violation of rules, cannot be considered for grant of retrospective promotion. The petitioner has to establish that the juniors of the petitioner were promoted or appointed in violation of the Rules or the authorities have committed any irregularity. In the absence of establishing any such ground, the relief as such sought for in the present writ petition to grant retrospective promotion, cannot be considered. The writ petition is devoid of merits and stands dismissed. No costs.

07.11.2022

mrn
Index : Yes / No
Speaking order / Non-Speaking order



To

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Chennai – 600 009.

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S.M.SUBRAMANIAM, J.

mrn

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