



WEB COPY

W.P.No. 27362 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 27362 of 2018

A. Alphonse

... Petitioner

Vs.

1. The Secretary to Government (LAD)
Chief Secretariat,
Puducherry – 605 001.

2. The Director,
Local Administration Department,
Puducherry – 605 001.

3. The Commissioner,
Puducherry Municipality,
Puducherry – 605 001.

... Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to promote the petitioner for the post of Sanitary Maistry Grade -II with effect from 20.12.1997 and further promotion to the post of Sanitary Maistry Grade -I with effect from 01.01.2001 and to further promote the petitioner to the post of Sanitary Inspector Grade -II with effect from 01.01.2006 with all consequential benefits.



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For Petitioner
For Respondents

: Mr. P. Suresh
: Mr. R. Syed Mustafa
Special Government Pleader
(Puducherry)
for R1 and R2

ORDER

Promotion per se cannot be claimed as an absolute right. However, consideration for promotion is a fundamental right of an employee. An administrative decision if any taken by the competent authorities to fill up the promotional post, then a panel is to be prepared by following the rules in force. While undertaking the process of preparation of panel, the competent authorities are bound to consider the names of all the eligible candidates who are all aspiring to secure promotion in the order of seniority.

2. Mere availability of vacancies or eligibility would not be a ground to claim promotion automatically. Promotion per se cannot be a right and therefore only if an irregularity or illegality has been committed in the matter of promotion then alone the employee gets right to claim retrospective promotion but not otherwise.



3. In the present case, the petitioner could not able to establish any of his juniors, were promoted to the higher post over looking the seniority or rules relating to the promotions were violated. The contention of the petitioner is that he is eligible during the relevant point of time and posts were also vacant and therefore he should have been given promotion. Such a claim made out by the petitioner is untenable since promotion is not a right. Petitioner even at the time of the filing of the writ petition was in verge of retirement and now he is aged about 62 years. That apart, mere eligibility or availability of vacancies in a promotional post is not a ground to claim retrospective promotion and thus, the petitioner is not entitled for the relief. Accordingly, the writ petition stand dismissed. No costs.

16.11.2022

mrn

Index : Yes / No

Speaking order / Non-Speaking order



To

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S.M.SUBRAMANIAM, J.

mrn

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