



WEB COPY

W.P.No. 33401 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 33401 of 2018

N. Savithri

... Petitioner

Vs.

1. Tamil Nadu Fisheries Development Corporation
Limited,
129, R.K. Mutt Road,
Raja Annamalaipuram,
Chennai – 600 028.

2. The Manager,
Tamil Nadu Fisheries Development
Corporation Limited,
Aliyar Nagar Unit, Aliyar Nagar,
Pollachi.

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to accord to the petitioner's notional promotion as Superintendent from 16.12.2016 and to pay the petitioner the due salary benefits and retirement benefits including pension within a time to be fixed by this Court.

For Petitioner

: Mr. K. Sivasubramanian
for Mr. T. M. Hariharan

For Respondents

: Mr. Master Ganesh
for R1 and R2



ORDER

A Government employee slept over the right regarding his seniority and promotion, cannot wake up one fine morning and knock the doors of the Court for redressal. Such belated claims are not entertainable.

2. In the present case, the writ petition is filed after the retirement of the petitioner and he states that he was employed initially as Typist and thereafter promoted to the post of Junior Assistant and Assistant. He was allowed to retire from service on 31.05.2017. The writ petition itself was filed after a lapse of one year from the date of retirement. The claim of the writ petitioner is that he was not considered for promotion to the post of Superintendent during the relevant point of time.

3. The promotion per se cannot be claimed as an absolute right. However the consideration for promotion is a fundamental right of an employee. Thus, all the employees who are all eligible for promotion are to be considered by the competent authorities while undertaking the process of preparation of panel in accordance with the Rules in force. If at all the name of the writ petitioner was not considered for inclusion for promotion to the



post of Superintendent, he would have approached the competent authorities and the Court of law within the reasonable period of time. However, the petitioner allowed the claim to lapse and now after a lapse of several years, he has filed the writ petition. The dispute relating to seniority and promotions are yet to be agitated within three years as per the Rules in force. The petitioner has not raised the claim within the period of time and at this belated point of time, the claim of the writ petitioner for appointment to the post of Superintendent cannot be considered. More so, notional promotion with retrospective effect is to be considered only if the employee establishes that his promotional opportunity was denied in violation of the Rules in force or his junior was overlooked in an illegal manner. In the absence of any such ground, the claim for retrospective promotion cannot be entertained.

4. For all these reasons, the writ petition is not entitled for the relief.

Accordingly, the writ petition stands dismissed. No costs.

18.10.2022

mrn

Index : Yes / No

Speaking order / Non-Speaking order

To

1. Tamil Nadu Fisheries Development Corporation



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S.M.SUBRAMANIAM, J.



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