



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.5587 of 2020

B.Godvin Vetha Grace Raj

... Petitioner

-Vs-

1.The Secretary to Government,
Social Welfare and NMP Department,
Secretariat, St.George Fort,
Chennai.

2.The Director of Social Welfare,
Chepauk, Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to grant promotion to the petitioner as District Project Officer by notionally promoting the petitioner as P.G. Assistant in the light of the proceedings of the 2nd respondent in Na.Ka.No.4411/Nir 3(4)/2020, dated 23.05.2013 by considering the representation of the petitioner dated 03.10.2019, within a time frame that may be fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.D.Sadiq Raja,
Additional Government Pleader.

ORDER

The relief sought for in the present Writ Petition is to direct the respondents to grant promotion to the writ petitioner as District Project Officer by notionally promoting him as P.G. Assistant in the light of the proceedings of the 2nd respondent dated 23.05.2013 by considering the representation of the petitioner dated 03.10.2019.

2.The petitioner was appointed on compassionate ground due to the death of his mother, namely, Swornam, while she was in service. At the time of the demise of the mother of the petitioner, he was aged about 13 years. Thereafter, he had completed M.Sc., M.Ed., degrees and applied for compassionate appointment. The petitioner was appointed as Junior Assistant in the Social Welfare Department in proceedings dated 29.10.1993.

3.The claim of the writ petitioner is that he has possessed higher educational qualification of M.Sc., M.Ed., and therefore, he should be granted promotion to the post of District Project Officer by notionally promoting the petitioner as P.G., Assistant by considering his representation dated 03.10.2019.



4.Promotion *per se* cannot be claimed as a matter of absolute right. Promotions are to be made strictly in accordance with the rules in force. All eligible members, who are all waiting for promotion are to be considered while undertaking the process of preparation of panel for grant of promotion. Thus, consideration for promotion is a right of an employee. Whenever an administrative decision is taken to fill up the higher post, the names of all the eligible persons are to be considered in accordance with the rules and by following the rules of seniority. Mere possessing additional qualification or higher qualification would not provide a ground to claim promotion to higher post.

5.The petitioner was admittedly appointed on compassionate ground to the post of Junior Assistant and his next avenue for promotion is to the post of Assistant and thereafter, Office Superintendent. Such promotions are to be granted in accordance with the rules, while preparing panel of employees fit for promotion to the post of Assistant. The claim of the writ petitioner that he possessed educational qualification of M.Sc., M.Ed., would not be a ground for seeking retrospective promotion to the post of District Project Officer by notionally promoting the petitioner to the post of P.G. Assistant. The claim is absolutely misconceived and untenable.

6.If at all the petitioner wants to secure higher post, he has to participate in the open competitive process by duly obtaining permission from the competent authority. By virtue of educational qualification, the petitioner cannot seek promotion and in such event every such employees, who are possessing qualification will claim promotion to the higher post, it is directly in violation of the service rules in force.

7.It seems that the petitioner is not happy with the post of Junior Assistant and he is of an opinion that he is eligible to hold higher post, therefore, he should be notionally promoted as P.G. Assistant and further to the post of District Project Officer. If at all the petitioner is developing shyness in working in the post of Junior Assistant, he has to work hard for the purpose of securing higher post only by participating open competitive process and not filing such Writ Petition by presumption merely on the basis of possessing educational qualification.

8.Lakhs and lakhs of post graduate youths of our great Nation are waiting to secure public employment. Many such higher qualified candidates are joined in the lower post on account of unemployment issues in our Country. Therefore, the petitioner has to secure higher post only by participating in the open competitive process and his promotions are to be considered only in accordance with the service rules in force, whenever a decision is taken to fill up the



9. With these observations, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (Protocol)

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/ /2022

Sub Assistant Registrar(CS)

Myr

To

1. The Secretary to Government,
Social Welfare and NMP Department,
Secretariat, St. George Fort,
Chennai.

2. The Director of Social Welfare,
Chepauk, Chennai.

+1 CC to M/s.S.C. HEROLD SINGH, Advocate (SR-19600[F] dated
20/04/2022)

+1 CC to M/s.SPL.GP. (SR-19730[F] dated 20/04/2022)

W.P. (MD) No. 5587 of 2020

MGJ(28.04.2022) 3P 5C