



W.P.No.15140 of 2013

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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R.Udayakumar

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Petitioner

Vs

1. The State of Tamil Nadu,
represented by its Secretary to Government,
Home (Courts) Department,
Fort St.George, Chennai – 600 009.

2. The Director of Prosecution (I/c)
Directorate of Prosecution,
Slum Clearance Board Building,
2nd Floor, No.5, Kamarajar Salai,
Chennai – 600 005.

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Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records comprised in letter No. 15279/Cts.VI/2011-2, dt 28.05.2013, on the file of the 1st respondent, quash the same and consequently direct the 1st respondent to promote the petitioner to the post of Deputy Director of Prosecution based upon the panel as proposed by the 2nd respondent in R.C. No. 241/DOP/A1/2011, dated 13.09.2012, and from the date which the petitioner became eligible for such promotion along with all



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consequential monetary benefits

For Petitioner : Mr.R.Bharanidharan
For R1 : Ms.Akhila Rajendran
Government Advocate
For R2 : No appearance

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent, thereby rejecting the request for promotion to the post of Director of Prosecution/Deputy Director of Prosecution.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the first respondent and perused the materials available on record.

3. The petitioner joined the Prosecution Department as Assistant Public Prosecutor Grade-II in the year 1989. Thereafter, he was promoted to the post of Assistant Public Prosecutor Grade-I. He also attained superannuation on 30.06.2013. However, he claimed that the level of promotion from the post of Assistant Public Prosecutor Grade-I is that of the Assistant Director of Prosecution/Additional Public



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Prosecutor wherein the senior most Assistant Public Prosecutor Grade-I would be promoted as Assistant Director of Prosecutor/Additional Public Prosecutor. Therefore, the petitioner made a representation on 29.01.2013.

4. As per Section 25A of Criminal Procedure Code, which prescribes that an advocate having not less than 10 years of practice to be appointed as Director of Prosecution/Deputy Director of Prosecution with the concurrence of Chief Justice of High Court. In this regard, the Government of Tamil Nadu passed the Indian Penal Code and the Code of Criminal Procedure (Tamil Nadu Amendment) Bill, 2006 to omit Section 25A together with some other Sections of Criminal Procedure Code and Indian Penal Code. It is still pending with Government of India for obtaining the assent of the President. Therefore, the request of the petitioner was not considered and rejected. While pending the Bill before the President of India, the petitioner attained superannuation and he retired from service. Therefore, the petitioner's name cannot be considered for the post of Deputy Director of Prosecution. Therefore, the



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writ petition is lack of merits and it is liable to be dismissed.

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5. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

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Internet: Yes

Index: Yes/No

Speaking/Non-speaking order

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To

1. The Secretary to Government,
State of Tamil Nadu,
Home (Courts) Department,
Fort St.George, Chennai – 600 009.

2. The Director of Prosecution (I/c)
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G.K.ILANTHIRAIYAN, J.



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