



WP.No.12567 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.12.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.12567 of 2020
and
WMP.No.15496 of 2020

M.Selvarasu

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Petitioner

/vs/

1. The Chairman,
Puducherry Housing Board -cum
Secretary to Government,
Puducherry Housing Board,
Puducherry.

2. The Secretary,
Puducherry Housing Board,
Puducherry.

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Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of MANDAMUS to direct the respondents to promote the petitioner to the post of Superintendent with effect from 19.5.2011, the date on which the petitioner became qualified with all other consequential benefits including difference of wages.

For Petitioner : Mr.V.Ajayakumar

For Respondents : Mr.B.A.Sujay Prasanna



ORDER

The petitioner who is working as an Assistant for the 1st respondent Puducherry Housing Board has filed this Writ petition to consider and promote him to Superintendent in the available vacancies with effect from 19.05.2016.

2. Heard, Mr.V.Ajayakumar, learned counsel for the petitioner and Mr.B.A.Sujay Prasanna, learned counsel for the respondent and perused the materials available on record.

3. Mr.V.Ajayakumar, learned counsel for the petitioner submitted that the petitioner has been promoted to the post of Assistant on 07.06.2007 and he has completed more than 14 years of service in the cadre of Assistant. Despite the petitioner requested the 1st respondent to consider him for promotion to the cadre of Superintendent, he was not considered.

4. Mr.B.A.Sujay Prasanna , learned counsel for the respondent submitted that the post of Superintendent itself is not available and hence, it is impossible to promote the petitioner to the post of Superintendent. It is further stated that the 1st respondent has submitted the proposal for sanctioning the post of Superintendent to the 2nd respondent and only if the posts are sanctioned it can be filled up by promotion or otherwise.

5.The attention of this Court was drawn to the proceedings of the 2nd



respondent dated 03.02.2020 wherein, the representation of the petitioner and one Rajalingam was taken up for consideration. In the said proceedings, it is observed that the petitioner and an another person have completed more than 13 years of continuous service and they have been serving for nearly 30 years for the Board. It is also admitted that they are qualified as they had passed the necessary account test.

6. However, it is observed that the board has not framed any recruitment rules for the post of Superintendent and due to amalgamation of the post of superintendent Grade I and Grade II, the Department of Personnel & Administrative Reform, the government of Puducherry has not yet notified the recruitment rules for the post of Superintendent till the end of the year 2018. So it is stated that the 2nd respondent is anticipating the notification to be given by the government of Puducherry with regard to Recruitment Rules.

7. For the post of Superintendent the Government of Puducherry has issued notification in the year 2019. The Board has followed the same in its own rules and sent the rules for the approval of the Government and it is yet to be approved. Unless the rules are approved and notified, the respondent cannot be proceeded to the recruitment of Superintendent either by promoting the petitioner or otherwise. It is understandable that the respondents are helpless without the rules notified. In



such contingency, I feel it is appropriate to direct the 1st respondent to consider the long services of those who have already been in service in the cadre of Assistant and notify the Rules at the earliest, in order to enable the 2nd respondent to proceed further.

8. However, it is submitted by the learned counsel for the respondent that the petitioner got retired and even if the rules are notified, he cannot get any promotion. But such conclusions need not be arrived i.e. now itself before the Rules are notified. After the rules are notified the petitioner is at liberty to give a fresh representation to the 2nd respondent to consider his claim for promotion and to accord him any service benefits with effect from the retrospective date during which the vacancy for the post was available.

9. The petitioner is said to be entitled to get Modified Assured Career Progression[MACP] in view of his completion of 10 years of service in the cadre of Assistant. So the 2nd respondent shall consider the representation of the petitioner atleast to sanction Modified Assured Career Progression [MACP] before getting the notification for the rules in respect of the post of Superintendent.

10. The 1st respondent is also directed to consider the rules for recruitment of Superintendent sent by the 2nd respondent and approve the same by issuing



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notification within a period of six weeks from the date of receipt of copy of this order. The petitioner can renew his representation for promotion, subsequent to the notification and it is up to the respondent to consider the same and pass appropriate orders.

With these observations, this Writ Petition is **disposed** and no costs. Consequently, connected miscellaneous petition is closed.

13.12.2023

Index : Yes
Internet : Yes/No
jrs



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R.N.MANJULA, J.

jrs

To

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Puducherry Housing Board
Secretary to Government,
Puducherry Housing Board,
Puducherry.
2. The Secretary,
Puducherry Housing Board,
Puducherry.

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