



W.P(MD)No.7715 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7715 of 2023

Vinayagamorthy

... Petitioner

Vs.

- 1.The Director,
Public Health and Preventive Medicine,
359, DMS Office,
Teynampet,
Chennai.
- 2.The Deputy Director of Health Services (Leprosy),
Government Hospital,
Balarengapuram Campus,
Madurai.
- 3.The Commissioner,
Food Safety and Drug Administration Department,
359, Anna Salai,
Teynampet,
D.M.S.Office,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the first respondent to consider the petitioner's representation dated 24.08.2022 followed by the petitioner's reminder representation dated 20.04.2023 on merits and promote



W.P(MD)No.7715 of 2023

the petitioner as a Health Inspector Grade I with retrospective effect from December 2015 along with monetary benefits for the above said period.

For Petitioner : Mr.S.Poornachandran

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner is presently working as Health Inspector Grade I. He was promoted to the said post on 10.12.2022. He seeks promotion with effect from 2015. The reason for depriving promotion was on account of his involvement in the criminal case. The petitioner points out that vigilance case initiated against him ended in acquittal on 27.08.2019. He points out that he was passed over for promotion, when he was considered in the year 2015, only on account of the pendency of the criminal case. Since the case ended in his favour, he should have been retrospectively promoted. This request has not been accepted by the respondent on the ground that questioning the judgment of acquittal, Criminal Appeal No.278 of 2020 has been filed and the same is still pending.



W.P(MD)No.7715 of 2023

WEB COPY

3. I wanted to know if on account of the pendency of the appeal against acquittal, the service benefits to be given an employee can be denied. My attention has not been drawn to any such rule or provision. On the other hand, there are quite a few decision of this Court in favour of the petitioner. Order dated 17.03.2021 in W.P.No.1043 of 2010 (G.Janarthanan Vs. Deputy Inspector General of Police) and order dated 12.01.2023 in W.P.No.10892 of 2018 (K.Anbalagan Vs. The Director) have been brought to my notice by the learned counsel appearing for the petitioner.

4. In these circumstances, applying the ratio set out in the aforesaid orders, I direct the respondents to grant promotion to the petitioner on the date when he originally became eligible. It is needless to mention that the petitioner's fate will abide by the outcome of the pending criminal appeal. Such promotion shall be given to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

5. The Writ Petition is allowed accordingly. No costs.

27.04.2023

Index : Yes / No
Internet : Yes/ No
rmi



WEB COPY



W.P(MD)No.7715 of 2023

G.R.SWAMINATHAN, J.

rmi

To

- 1.The Director,
Public Health and Preventive Medicine,
359, DMS Office,
Teynampet,
Chennai.
- 2.The Deputy Director of Health Services (Leprosy),
Government Hospital,
Balarengapuram Campus,
Madurai.
- 3.The Commissioner,
Food Safety and Drug Administration Department,
359, Anna Salai,
Teynampet,
D.M.S.Office,
Chennai.

W.P(MD)No.7715 of 2023

27.04.2023