



WEB COPY

W.P.No.12741



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.12741 of 2015

N.C.Gopinath

... Petitioner

Vs.

1.The State Commissioner for Differently Able Persons,
K.K.Nagar, ESI Complex,
Chennai – 600 078.

2.The Secretary to Government,
Differently Able Persons Department,
Secretariat,
Chennai – 600 009.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to calling for the records relating to the impugned order of the 1st respondent issued in the Proceedings Na.Ka.No.717/RH Admin (1)/2013 dated 10.02.2014 and also the order of the 2nd respondent issued in G.O.(1D) No.41 Differently Able Department dated 10.12.2014 and the consequential order of the 1st respondent issued in Na.Ka.No.495/RH Admin (1)/2013 dated 10.04.2015 and quash the same and consequently direct the respondents to promote him as Administrative Officer from the date of his withdrawal of relinquishment dated 08.09.2014 with all monetary benefits to the petitioner.



WEB COPY

W.P.No.12741



For Petitioner : Mr.T.Ranganathan

For Respondents : Ms.R.L.Karthika
Government Advocate

ORDER

The petitioner herein, while working as Superintendent, in the Differently Able persons Department, his case was considered for promotion to the post of Administrative Officer and he was accordingly promoted through Government order in G.O.(1D).No.17 Differently Able Department dated 27.12.2013. However, while giving posting orders, the petitioner was posted at Madurai District. In view of the same, the petitioner, by submitting a representation dated 20.01.2014, made a request for relinquishment of promotion and intended to continue at the same place where he was working as Superintendent. It was considering the said request of the petitioner, the 1st respondent passed an order in proceedings Na.Ka.No.717/RH Admin (1)/2013, dated 10.02.2014 and thereafter, the said action of the 1st respondent was ratified by the 2nd respondent by passing G.O.(1D).No.41, dated 10.12.2014 whereby, the request of the petitioner for relinquishment was accepted.



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2. It is aggrieved by the said order dated 10.02.2014 and 10.12.2014, the petitioner approached this Court by filing the present writ petition contending that the 1st respondent is not a competent authority to accept relinquishment of promotion and therefore, the order dated 10.02.2014 passed by the 1st respondent is illegal and as such cannot be ratified by the 1st respondent. Thus, the learned counsel for the petitioner contended that both the orders are liable to be declared as illegal and arbitrary and consequently, the petitioner is entitled for promotion to the post of Administrative Officer.

Ms.R.L.Karthika, learned Government Advocate, reiterated the contents of the counter and prayed to dismiss the writ petition.

3. This Court has carefully considered the submissions made on either side and also perused the entire materials on record.

4. It is not the case of the petitioner that his case was not considered for promotion. Admittedly, the case of the petitioner was considered for promotion and accordingly, an order was issued promoting the petitioner to the



post of Administrative Officer on 27.12.2013. It is pursuant to the said order of promotion, the petitioner instead of joining in the promotional post in terms of the said order, has chosen to make a request for relinquishment of promotion and continued in the post as Superintendent and retired from service on 31.05.2015. Having admittedly relinquished the promotion, and having not joined the promotional post within the time prescribed under the General Rules, the petitioner opted to continue in the said post of Superintendent and retired from service, but made a claim for promotion to the post of Administrative Officer from the date of withdrawal of relinquishment i.e.08.09.2014 with all monetary benefits.

5. This Court, is unable to appreciate the stand of the petitioner for the simple reason that the petitioner, having failed to join in the promotional post pursuant to the order of promotion dated 27.12.2013, has lost his right to claim for promotion. Further, he himself admittedly made a request for relinquishment, thus, the respondents cannot be held reasonable for the non-promotion of the petitioner to the post of Administrative Officer. The petitioner, on his own volition, has chosen to continue in the post of Superintendent and retired from service. It is not the case of the petitioner that



any of his juniors were considered to the post of Administrative Officer after 27.12.2013 without considering the case of the petitioner.

WEB COPY

6. In the circumstances, this Court does not find any merit in the writ petition and the same is accordingly, dismissed. The connected miscellaneous petitions, if any shall stand closed. No costs.

23.10.2024

dpa

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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2.The Secretary to Government,
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MUMMINENI SUDHEER KUMAR, J.

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