



W.P. No.19717 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No. 19717 of 2015

M.G.Arumugam

... Petitioner

Vs.

1. The State of Tamil Nadu
rep.by its Secretary
Health and Family Welfare Department
Fort St.George
Chennai – 600 009.
2. The Director of Public Health
and Preventive Medicine
Anna Salai, Chennai – 600 006.
3. The Deputy Director of Public
Health and Preventive Medicine
Institute of Public Health
Poonamallee
Chennai – 600 056.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent bearing Na.Ka.No.51875/ pa Tho.2/ Iru3/2014 dated

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01.10.2014, and quash the same and direct the respondents to promote the petitioner to the post of Public Health Assistant Executive Engineer based on the recommendation made by the Assistant Director of Public Health and Preventive Medicine, Institute of Public Health in R.No.17383/G2/Estt./77-81 dated 07.06.1982 and in R.No.8651/G2/85 dated 12.09.1985 and by following Section 47(2) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

For Petitioner : Mr.R.Rangaramanujam

For Respondents : Mr.K.Tippu Sultan
Government Advocate

ORDER

The brief facts that are relevant for disposal of the present writ petition as under :

(a) The petitioner herein was appointed as Draughtsman Grade-III in the Public Health and Preventive Medicine, Institute of Public Health, Poonamallee on 24.08.1967 and thereafter, his services were regularised with effect from 11.04.1969.

(b) According to the petitioner, the Institute of Public Health, Poonamallee



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followed the Rules of State Public Works Department Rules in respect of Draughtman Grade-III for all practical purposes. According to him, he was eligible to get promotion to the post of Assistant Engineer (Public Health Assistant Engineer) and accordingly, he made a claim for such promotion by submitting a representation dated 11.10.1973. The said claim was considered and he was informed by the second respondent through L.Dis.No.209406-HEB/73-S2, dated 29.01.1974 that the case of the petitioner would be considered for promotion to the post of Public Health Assistant Executive Engineer only after completion of 10 years of service with field experience of not less than 1 year. After completing the said service of 10 years and 1 year field experience, the petitioner submitted an application for promotion once again on 14.05.1981. On considering the said application, the Assistant Director of the Institute of Public Health, recommended the case of the petitioner in his letter No.17383/G2/Estt.77-81, dated 09.06.1981 to the second respondent, but the said proposal was pending. In the mean time, the petitioner was appointed as Supervisor under the conversion programme and thereafter, once again, a proposal was submitted by the Assistant Director through letter dated 07.06.1982 to the second respondent,



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recommending the name of the petitioner for promotion to the post of Public Health Assistant Executive Engineer, considering the qualification and the fact that the petitioner is an in-service candidate. However, the case of the petitioner was not considered for such promotion and the post of Public Health Assistant Executive Engineer was filled up by way of deputation from other Departments. However, while the said proposal submitted by the Assistant Director was pending with the second respondent, the petitioner was medically invalidated due to colour blindness and he was discharged from service through proceedings dated 04.02.1993 with effect from 30.10.1992. Aggrieved by the said proceedings dated 04.02.1993, the petitioner approached the then Tamil Nadu Administrative Tribunal by filing O.A.No.1415 of 1993. Thereafter, the same was transferred to this Court and re-numbered as W.P.No.13649 of 2006. The said writ petition came to be allowed by this Court by an order dated 02.11.2006. In the meanwhile, during the pendency of the said writ petition, the petitioner attained the age of superannuation on 30.06.2002. In view of the same, this Court while allowing the said writ petition by order dated 02.11.2006, directed the respondents to settle the terminal benefits of the petitioner. Thereafter, the



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petitioner submitted representations on 16.06.2014, 19.07.2014, 22.08.2014 and 15.09.2014 for promotion to the post of Public Health Assistant Executive Engineer. The said request made by the petitioner was considered by the second respondent and through letter No. Na.Ka.No.51875/Pa.Tho 2/Iru 3/2014, dated 01.10.2014 the petitioner informed that the appointment to the post of Public Health Assistant Executive Engineer in the respondents-organisation cannot be made at the level of the second respondent's office. Aggrieved by the said proceedings dated 01.10.2014, the petitioner approached this Court by filing the present writ petition.

2. It is not the case of the petitioner that there was any promotion channel to the post of Public Health Assistant Executive Engineer from the post held by the petitioner. In the absence of any Rule providing for consideration of the case of the writ petitioner for promotion to the post i.e., Public Health Assistant Executive Engineer, the petitioner has no vested right for such consideration. There are no such Rules which provide for consideration of the case of the persons like the petitioner herein for promotion to the post of Public Health



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Assistant Executive Engineer. On the other hand, it is an admitted fact that there are no Rules governing the post of Public Health Assistant Executive Engineer in the organisation of the respondents. In the absence of any such Rules, this Court does not find any enforceable right to the petitioner to seek consideration of his case for promotion to the said post.

3. No doubt, the Assistant Director of the respondents-Institution on two occasions, submitted proposals for promoting the petitioner to the post of Public Health Assistant Executive Engineer. But mere submission of proposal by the officer of the institution would not confer any right in favour of the petitioner nor create any obligation on the higher authorities to consider the case of the petitioner for promotion.

4. From a perusal of the affidavit filed in support of the writ petition, it is evident that there are no Rules governing to the post of Public Health Assistant Executive Engineer. As already noted above, the petitioner was discharged from service in the year 1993 on the ground of medical invalidation. No doubt, the said



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discharge of the petitioner from service, was set aside by this Court, by taking into consideration the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. By the time the said relief was granted in favour of the petitioner by this Court, the petitioner has already attained the age of superannuation.

5. In the light of the above, especially in the light of the above conclusion arrived at by this Court that there is no vested right conferred on the petitioner to claim for consideration of his case for promotion to the post of Public Health Assistant Executive Engineer, this Court does not find any merit in the present writ petition and accordingly, this writ petition is dismissed. There shall be no order as to costs.

23.08.2024

Speaking Order : Yes/ no
Index : Yes/No
Neutral Citation : Yes/No
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To

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State of Tamil Nadu
Health and Family Welfare Department
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Chennai – 600 009.
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MUMMINENI SUDHEER KUMAR, J.

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