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W.P. No.34255 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.34255 of 2012

and

M.P.No.1 of 2012

P.Periasamy

... Petitioner

Vs.

1.The Secretary to Government,
Handlooms, Handicrafts, Textiles
& Khadi Dept,
Fort St. George, Secretariat,
Chennai 600 009.

2.The Chief Conservator of Forest
& Director of Sericulture
Foulke's Compound,
Anaimeedu,
Salem – 636 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in proceedings No.Na.Ka.No.9715/P.A 2/2012 dated 26.10.2012 rejecting the petitioner's claim for notional promotion, quash the same and consequentially direct the respondents to promote the petitioner notionally to the post of Assistant Inspector of Sericulture with all promotional benefits w.e.f the date



W.P. No.34255 of 2012

of promotion of his juniors.

For Petitioner : Ms.Babu Rangasamy
For Respondents : Mr.R.Vigneshwaran
Government Advocate.

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ORDER

The petitioner herein who joined the Sericulture Department as Junior Inspector of Sericulture in the year 1981 continued in the said post and he was given Selection grade and Special grade in the years 1994 and 2004 respectively. After having served as such, the petitioner retired from service on 31.05.2011.

2. While the petitioner was in service, he made a claim for promotion to the post of Assistant Inspector of Sericulture but the same was not considered. After retirement from service, the petitioner approached this Court by filing the writ petition in W.P.No.18439 of 2012 and this Court, by an order dated 18.07.2012 directed the 1st respondent to consider the claim of the petitioner and to pass appropriate orders on the representation dated 13.06.2012 submitted by the petitioner within a period of three months. Considering the said representation, the 1st respondent passed the impugned order dated 26.10.2012 in Proceedings Na.Ka.No.9715/P.A 2/2012 rejecting the request of the petitioner for notional promotion on the ground that none of the juniors



of the petitioner were promoted to the post of Assistant Inspector of Sericulture and his case was not considered for promotion as the petitioner has not come up within the zone of consideration while he was in service.

3. However, it is strenuously contended by the learned counsel for the petitioner that, immediately after the petitioner retired from service, the respondents have issued promotion orders to the juniors of the petitioner on 18.09.2012 and further contended that the crucial date for preparation of panel in the instant case was 15.04.2012 and had the respondents prepared the panel as on that date, the petitioner would have got promotion to the post of Assistant Inspector of Sericulture while he was in service. As the case of the juniors were considered after the petitioner retired from service, the petitioner is claiming for notional promotion to the post of Assistant Inspector of Sericulture.

4. The respondents filed counter affidavit stating that as on the crucial date i.e., on 15.04.2012, there was no vacancy in the post of Assistant Inspector of Sericulture and therefore, the estimate of vacancies in the post of Assistant Inspector of Sericulture for the year 2012-2013 was issued only on



W.P. No.34255 of 2012

20.06.2012 and thereafter, the promotions were effected on 18.09.2012.

Thus, it is contended that none of the juniors were promoted to the post of Assistant Inspector of Sericulture and the case of the petitioner could not be considered for want of coming within the zone of consideration while the petitioner was in service.

5. From the above, it is evident that, none of the juniors were promoted to the post of Assistant Inspector of Sericulture while the petitioner was in service and it is only three months after the petitioner retired from service, the promotion orders were issued in favour of several persons including the juniors of the petitioner to the cadre of Assistant Inspector of Sericulture.

6. In the light of the above, the question of petitioner being entitled for notional promotion to the post of Assistant Inspector of Sericulture does not arise and this Court does not find any error or illegality in the impugned order dated 26.10.2012 passed by the 1st respondent.

7. Accordingly, the writ petition is dismissed and the connected miscellaneous petitions, if any shall stand closed. No costs.



WEB COPY



W.P. No.34255 of 2012

07.08.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

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