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Writ Appeal No.3822 &3823 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.04.2024

PRONOUNCED ON : 24.04.2024

CORAM

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

Writ Appeal Nos.3822 & 3823 of 2019

T.Jaya Raj ... Appellant in all W.As.,

Vs

- 1.The Govt., of Tamilnadu,
Rep., by its Special Commissioner and
Secretary to Govt., Health and
Family Welfare Department,
Fort St., George, Chennai – 600 006.
- 2.The Director,
Directorate of Family Welfare,
VI Floor, D.M.S., Complex, Teynampet,
Chennai – 600 006.
- 3.Thiru.C.Muthusamy, 'Demographer'
Directorate of Family Welfare,
Chennai – 600 006. ... Respondents in all W.As.,



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COMMON PRAYERS: Writ Appeals have been filed under Clause 15 of Letter Patent against the order dated 12.11.2013, made in W.P.No.7733 of 2008 and W.P.No.26766 of 2009.

For Appellants : Mr.A.Amal Raj for Both W.As.,

For Respondent : Mrs.M.Sneha for Spl counsel family and Welfare for RR1 to 3

COMMON JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU., J)

This Intra Court Appeals have been preferred challenging the order of the learned Single Judge wherein the learned Single Judge had rejected his challenge to the promotion of the third respondent therein in W.P.No.26766 of 2009 and upholding the order of the first respondent in rejecting the claim of the appellants for promotion.

2. Heard Mr.A.Amal Raj, learned counsel appearing for the ap-
pellant and Mrs.M.Sneha, learned counsel appearing for the respondents 1
to 3.



3. The learned counsel appearing for the appellant would submit that the appellant was initially appointed as a Social Scientist in the year 1989 and that to the next promotion category of Demographer, the said post was also a feeder category. However, by subsequent amendments, the qualification for promotion to the post of Demographer, was came to be modified as recruited by transfer from among the post of Lecturer in Statistics and Demography, which according to him had made him ineligible for the promotion to next higher category. Therefore, he had challenged the said amendment in O.A.No. 1255 of 2000, before the Tamil Nadu Administrative Tribunal however, the same came to be dismissed. Against which, he had also preferred a Writ Petition before the Division Bench of this Court and the Division Bench even though had rejected the same, had given a direction to consider the case of the appellant and to pass appropriate orders. Without considering the case of the appellant, the respondents have rejected his claim and that they have promoted the third respondent.



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4. According to the learned counsel appearing for the appellant even though when the vacancies arose in the post of Demographer and that the appellant had qualification to getting the promotion, the respondents have not filled the vacancy, but however, by the amended Rules the appellant had been non-suited. According to him, this cannot be put against him and that the vacancy should be filled up based only upon the Rules that was prevailing at that point of time. He would further submit that the Department was inimical upon him and had infact promoted a person on temporary basis, who did not even possess the prescribed qualification as that of the appellant. Therefore, he would submit that the order of the learned Single Judge is liable to be interfered with.

5. Countering his arguments, Mrs.M.Sneha, learned counsel appearing for the respondents would submit that the appellant is admittedly a Social Scientist and the said category is not a feeder category for promotion to the post of Demographer. The third respondent whose promotion had been challenged had been a Statistical Officer, which post is the feeder category to the post of Demographer and has been promoted. She



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would further submit that considering the case of the appellant, the post that he had been holding, had been upgraded as a State Population Coordinator, which is in the cadre of the Demographer as early as in the year 2016. The said upgraded post would also revert back as a Social Scientist on the superannuation of the appellant herein. Therefore, according to her, the appellant cannot be said to be an aggrieved person to maintain the appeals. It is also brought on record that the appellant had retired from service on attaining the age of superannuation in the year 2017. Therefore, she would submit that there is no necessity to interfere with the order passed by the learned Single Judge.

6.We have heard the rival submissions made by the learned counsel appearing on either side and perused the materials placed on record.

7.It is an admitted fact that the Rules have been amended by modifying the feeder category of promotion, as recruitment by transfer to the post of Demographer from the person holding the post of Lecturer of Statistics/Demography or a person holding the post of Statistical Officer.



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The appellant had unsuccessfully challenged the amendment up to this Court. Therefore, he cannot be heard to contend that the amendment had been made only to non-suit him, as the issue has been concluded long before.

8. When the feeder category to the post of Demographer as per the Rules is only a Lecturer in Statistical or Demography/ Statistical Officer, admittedly, the appellant does not hold any of the said post. He admittedly is a Social Scientist working in the Department. Therefore, he cannot claim promotion to the post of Demographer for these reasons, we do not find any infirmity with the passed by the learned Single Judge.

9. It has been brought on record that the appellant's post has been upgraded as a State Population Coordinator in the year 2016, which is equivalent to the cadre of a Demographer in the same pay scale. The said post has also been upgraded only for the benefit of the appellant, as admittedly, on superannuation of the appellant, the said post would be down graded as Social Scientist.



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10.From the above, we find that the grievance of the appellant had been redressed to by the Department and that he had superannuated in a cadre equivalent to that of the Demographer.

11.For the foregoing reasons, these Writ Appeals fail and the same are accordingly dismissed. However, there shall be no order as to costs.

(D.K.K.,J.)

(K.B., J.)

24.04.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation:Yes/No

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