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W.A.No.1445 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.No.1445 of 2023

S.S.Praveen Kumar

... Appellant

-Vs-

1. The Government of Tamil Nadu,
Represented by Principal Secretary to Government,
Micro, Small and Medium Enterprises Department,
Secretariat,
Chennai - 600 009.

2. The Industries Commissioner / Director of Industries
and Commerce,
SIDCO Corporate Office Building,
Guindy,
Chennai - 600 032.

... Respondents

PRAYER : Appeal under Clause XV of Letters Patent against the order dated 29.06.2022 made in W.P.No.16262 of 2022.

For Appellant : Mr.M.Ravi

For Respondents : Mr.M.Venkateswaran
Special Government Pleader

J U D G M E N T



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(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

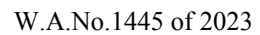
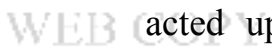
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This intra Court appeal has been directed against the order dated 29.06.2022 made in W.P.No.16262 of 2022.

2. The writ petitioner, who is the appellant herein, was working as a Statistical Survey Inspector 'in short SSI' at the respondent Department. While so, there has been a dispute with regard to fixation of *inter se* seniority, that issue had gone to the Court and ultimately, the seniority fixed in the year 2012 which is detrimental to the interest of the appellant / petitioner has been revised and a revised seniority list had been issued on 18.02.2013 whereby admittedly the appellant / petitioner has been placed in appropriate place in the *inter se* seniority list.

3. Based on the revised seniority, since the appellant / petitioner had become eligible to be considered for promotion to the post of next higher cadre, i.e., Assistant Director, such a promotion had been given notionally with effect from 2008. Thereafter, he retired from service on superannuation on 31.05.2013.

4. In this context, it is the grievance of the appellant / petitioner that, on



5. That apart, it is the further grievance of the appellant / petitioner that since the promotion had been given in the year 2008 to the post of Assistant Director and the same has been denied initially for no fault of him as he has not been properly placed in the seniority list, he should be entitled to get back wages / salary for the post of Assistant Director from 2008 onwards. With these grievances, he approached the writ Court.

6. The writ Court, having considered the factual matrix as well as the legal position, has dismissed the writ petition by stating that, till his superannuation and retirement, no junior of him had been given promotion to the post of Deputy Director and subsequent to the retirement of him since the junior got promoted, he cannot claim any right over the same and therefore, the writ Court has dismissed the writ petition through the impugned order.



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7. Though Mr.M.Ravi, learned counsel appearing for the appellant has made an attempt to assail the order which is impugned herein by stating that it is not because of his fault he has been denied promotion to the post of Assistant Director in the year 2008 and having rectified their mistake by revising the seniority list since the promotion of Assistant Director had been given from 2008 notionally, such a promotion ought not to have been given notionally or for such promotion in the year 2008 to the post of Assistant Director, the appellant / petitioner is entitled to get the salary difference that was denied, therefore that was one of the grievance of him to be addressed. Insofar as the panel for the Deputy Director in the year 2012 is concerned, had it been acted upon before his superannuation in the year 2013, he would have earned such promotion and purposely, the Department had not acted upon the panel in the year 2012 and thereafter on retirement of the appellant / petitioner since the promotion had been given to the juniors of the petitioner to the post of Deputy Director, from the date on which the junior got promotion he is entitled to get promotion, of course, notionally to the post of Deputy Director.

8. This plea raised by the learned counsel appearing for the appellant is



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not feasible to be considered for the simple reason that, because of the fixation of *inter se* seniority which has been settled only on 18.02.2013, he could not be promoted to the post of Assistant Director in the year 2008. However, once the *inter se* seniority issue has been settled, the promotion has been given notionally to the post of Assistant Director from 2008. From 2008, admittedly the appellant / petitioner has not worked as a Assistant Director, therefore since he was entitled to get notional promotion, he was not entitled to get any wage difference or salary difference.

9. Insofar as the claim to the promotion to the post of Deputy Director in the year 2012 is concerned, it is a settled proposition that, the very preparation of the panel would not *ipso facto* give any right to the members of the panel to seek such promotion from the date of the panel.

10. It is for the employer to take a decision as to when the panel has to be operated or even sometime the panel would get lapsed and it would get merged with the next year panel depending upon the vacancy arises as well as the need for immediate filling up of the post for which the panel was drawn.

11. Here in the case on hand, though the panel might have been drawn



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sometime in 2012, the same had not been acted upon and in the meanwhile on 31.05.2013 since the appellant / petitioner retired from service. Thereafter, he cannot seek for any operation of the panel that was framed in the year 2012 as the Department could have operated the panel or subsequent panel for want of filling up of the vacancy immediately. The filling up of the vacancy is on need basis which cannot be questioned that why such a panel immediately was not operated and filled up the post. Therefore, such kind of right is not accrued on the employee like the appellant / petitioner that too after superannuation.

12. Therefore the reasoning given by the learned Judge in the impugned order to state that since the junior of the appellant / petitioner has got the promotion only after the retirement of the petitioner, the petitioner is not entitled for the promotion along with the junior is a correct view which has been taken by the learned Judge in the impugned order. Therefore, we do not find any reason to interfere with the said impugned order as both the grievance espoused by the learned counsel appearing for the appellant cannot be considered in their favour.



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13. For all these reasons, this Writ Appeal fails and it is liable to be dismissed, accordingly it is dismissed. However, there shall be no order as to costs.

(R.S.K., J.) (A.D.M.C., J.)
30.04.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

1. The Principal Secretary to Government,
The Government of Tamil Nadu,
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