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W.P.(MD) No.21881 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.21881 of 2021

and

W.M.P.(MD) No.18481 of 2021

R.Sankar

... Petitioner

-VS-

1.The State of Tamil Nadu
rep.by its Secretary to Government
Municipal Administration and
Water Supply Department
Secretariat, Chennai-9

2.The Director of Town Panchayat
Kuralagam, Chennai-108

3.The District Collector
Tuticorin, Tuticorin District

4.The Assistant Director of
Town Panchayats
O/o.The Assistant Director of
Town Panchayat
Tirunelveli Region
Tirunelveli District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No. 9110/2019/A1, dated 08.07.2020 and quash the same as illegal and consequentially to direct the 2nd respondent to notionally promote the petitioner as Executive Officer (Special Grade) w.e.f. 16.03.2015 and Assistant Director of Town Panchayat w.e.f 25.01.2016 with all service and other attended monetary benefits without reference to the subsequent punishment of Censure imposed against the petitioner vide proceedings dated 25.09.2019 in terms of judgment rendered in A.Kalaiselvan vs. The State of Tamil Nadu, rep.by the Principal to Government, Commercial Taxes and Registration Department, reported in 2016 (2) CWC 430.

For Petitioner : Mr.A.Nawaz Khan
for M/s.Ajmal Associates

For Respondents : Mr.A.Baskaran
Additional Government Pleader



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W.P.(MD) No.21881 of 2021

ORDER

This writ petition has been filed challenging the impugned order, dated 08.07.2020, passed by the second respondent, rejecting the petitioner's request for notional promotion to the post of Executive Officer (Special Grade).

2. According to the petitioner, his juniors were promoted on 16.03.2015 as Executive Officers (Special Grade). Further, according to the petitioner, on the said date, there was no pending disciplinary proceedings against him and therefore, he ought to have been promoted as Executive Officer (Special Grade) along with his juniors on 16.03.2015.

3. However, according to the respondents, as seen from the counter affidavit filed by the second respondent before this Court, the petitioner is not entitled for notional promotion.

4. This Court need not go into the merits of the contentions of the respective parties. Admittedly, the petitioner is seeking for notional promotion only after his retirement. He retired from service on 30.09.2019.



W.P.(MD) No.21881 of 2021

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5. The law is now well settled by the decision rendered by the Honourable Supreme Court in the case of ***Government of West Bengal and others vs. Dr.Amal Satpathi and others***, reported in ***2024 SCC OnLine SC 3512***, wherein it has been held that promotion cannot be retrospectively granted after retirement, as it requires actual assumption of duties and responsibilities of the promotional post. Though the right to be considered for promotion is not only a statutory right but also a fundamental right, but, there is no fundamental right to promotion itself.

6. The petitioner did not choose to challenge the promotion granted to his juniors as Executive Officers (Special Grade) on 16.03.2015 by filing a writ petition at the first instance. He chose to file only a writ of mandamus before this Court on the verge of his retirement in the year 2017, since his representation seeking for promotion to the post of Executive Officer (Special Grade) along with his juniors was not considered. Though a direction was issued by this Court to the respondents to consider the petitioner's representation in the said writ petition filed by the petitioner before this Court in the year 2017, which came to be rejected under the impugned order, that will not enable him to get the relief as prayed for in this writ petition, when



W.P.(MD) No.21881 of 2021

WEB COPY

admittedly, he has retired from service and has also not challenged the promotion granted to his juniors in the year 2015 itself immediately thereafter while he was in service. The Honourable Supreme Court, in **Dr.Amal Satpathi**'s case, referred to supra, has also made it clear that promotion cannot be retrospectively granted after retirement, as it requires actual assumption of duties and responsibilities of the promotional post. If notional promotion is granted by this Court, the aforesaid principle enunciated by the Honourable Supreme Court will be violated as the petitioner cannot assume duty in the promotional post, since he has already retired from service.

7. For the foregoing reasons, this Court does not find any merit in this writ petition and the same is, accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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Page 5 of 7



W.P.(MD) No.21881 of 2021

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To:

- 1.The Secretary to Government,
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- 2.The Director of Town Panchayat,
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- 3.The District Collector,
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W.P.(MD) No.21881 of 2021

ABDUL QUDDHOSE, J.

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W.P.(MD) No.21881 of 2021
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