



W.A.No.318 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2026

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No. 318 of 2015

C.Nagarajan

...Appellant

Vs.

1.The Secretary to Government,
Law Department,
Secretariat,
Fort St. George,
Chennai – 600 009.

2.The Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Fort St. George,
Chennai – 600 009.

3.P.Anbucholan

4.Mangalaraj Immanuvel

5.V.Renuka Devi

6.P.Thamarai Selvi

7.K.S.Kamalapoomathi

8.L.K.Vetrivel

9.K.Mohan

...Respondents

PRAYER: The Writ Appeal filed under Clause 15 of the Letters Patent praying to allow the Writ Appeal by setting aside the order passed by this Court in W.P.No.8116 of 2007, dated 23.12.2014.

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For Appellant : Mr.V.Govarthanan

for M/s.Row and Reddy

For Respondents : Mr.D.Gopal, Govt. Advocate for R1 & R2

Mrs.N.R.Jasimine Padma

for Mr.L.Chandrakumar for R3, R6 to R9

Mr.A.R.Suresh for R4

R5- Not ready in notice.

J U D G M E N T

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

Under assail is the writ order dated 23.12.2024 passed in W.P.No.8116 of 2007.

2. The case on hand is about preparation of panel and promotion to the post of Section Officer in Law Department, Secretariat, Government of Tamil Nadu Fit persons for promotion from amongst the eligible staff from the Assistant Section Officer are considered.

3. Governing legal principles for promotion are well settled. Promotion *per se* cannot be claimed as an absolute right by the employees. Consideration for promotion is the fundamental right of an employee. Thus, the competent Authority while undertaking the process of preparation of panel has to consider all the eligible employees for inclusion of their respective



names in the panel. Mere availability of vacancy would not confer any right to seek promotion by an employee. Filling up the post is prerogative of the Government and only if the administrative decision is taken to fill up the post, then the competent Authority has to follow the procedures for preparation of panel by considering all the eligible employees and thereafter grant promotion in accordance with the Service Rules applicable.

4. In the context of the above legal principles, the facts in brief in the present intra-Court appeal would show that writ appellant was appointed as Assistant in Law Department, Secretariat on 25.02.2000. During the period of probation and before regularization of his service, the appellant was temporarily promoted as Assistant Section Officer under Rule 39(a)(1) of the Tamil Nadu State and Subordinate Service Rules on a temporary basis. The temporary promotion issued in proceedings dated 30.08.2000 would amply make it clear that every individual by the order of temporary promotion shall not be entitled for any future appointment as Assistant Section Officer in Law Department. Therefore, no right can be claimed from and out of the temporary promotion granted under 39(a)(1) of the Rules. The appellant was regularly promoted as Assistant Section Officer on 17.03.2002. The next avenue for promotion is Section Officer in the Law Department.



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5. Mr.Govarthanan, learned counsel appearing for the writ appellant would mainly contend that one post of Section Officer was vacant as on 01.06.2002 in the Law Department and the appellant was fully eligible for promotion to the said post. Instead of considering the name of the appellant for promotion to the post of Section Officer as on 01.06.2002, the impugned Government Order in G.O.Ms.No.199, Law Department dated 14.09.2005 has been issued showing 'Nil' panel as on 01.06.2002. When one vacancy was very much available 'Nil' panel prepared and published by the Government in G.O.Ms.No.199 is untenable.

6. Mr.A.R.Suresh, learned counsel appearing for the 4th respondent would submit that the writ appellant was appointed as Assistant on 25.02.2000 and he was temporarily promoted as Assistant Section Officer. His services in the post of Assistant Section Officer has been regularized vide office proceedings dated 06.01.2005 with effect from initial date of promotion as Assistant Section Officer i.e., 17.03.2002. As on 01.06.2002, his services in the post of Assistant Section Officer was not even regularized.

7. In reply Mr.Govarthanan, learned counsel for the writ appellant would submit that the impugned Government Order was issued only on 14.09.2005 in G.O.Ms.No.199 with retrospective effect. Therefore, as on the date of



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issuance of G.O.Ms.No.199, the services of Writ appellant was regularized in the post of Assistant Section Officer.

8. May that as it be, this Court is of the considered view that when the Government decided not to grant promotion to any employee and taken administrative decision to prepare 'Nil' panel as on 01.06.2002, it is an administrative decision taken by the Government, which cannot be challenged by an employee in a Department. Mere eligibility for promotion to the post of Section Officer would not confer any right on the writ appellant to claim that the Government ought not to have prepared 'Nil' panel as on 01.06.2002. It is an administrative prerogative of the Government to fill up the post and promotion *per se* cannot be claimed as a right as ruled by the constitutional Courts.

9. The writ appellant was subsequently promoted as Section Officer, and his seniority was not altered nor affected. His only contention was that as on 01.06.2002 one post of Section Officer was vacant. Therefore, the Government ought to have promoted in the said post. Such a claim would fall beyond the realm of the service Rules and the appellant cannot claim promotion as a matter of right. This being the principles with reference to the facts established, this Court does not find any infirmity in the writ order impugned in the Writ Appeal.



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10. Consequently, the Writ Appeal stands **dismissed**. No costs.

(S.M.S., J.) (C.K., J.)
02.01.2026

dsa
Index :Yes/No
Neutral Citation :Yes/No
Speaking/Non-speaking order



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To

1. The Secretary to Government,
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Secretariat,
Fort St. George,
Chennai – 600 009.

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Personnel and Administrative Reforms Department,
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