

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE V.DHANAPALAN
AND
THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.A.No.992 of 2011
& M.P.No.1 of 2011

1. The Government of Tamil Nadu,
rep. by its Secretary,
Public Works Department,
Fort St.George, Chennai-600 009.
2. The Engineer-in-Chief,
& Chief Engineer (General), P.W.D.,
P.W.D., Chepauk, Chennai-600 005.
3. The Superintending Engineer,
Water Resources Organization, P.W.D.,
Pennaiyar Basin Circle, Tiruvannamalai.
4. Executive Engineer, P.W.D.,
Water Resources Organization,
Upper Pennaiyar Basin,
Dharmapuri-5. . . Appellants/ Respondents

Vs.

M.G.Sundaresan

. . . Respondent/ Petitioner

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 16.09.2009 made in W.P.No.1240 of 2009 under Article 226 of the Constitution of India This Writ petition is filed for a direction against the second respondent to pass appropriate orders as per proceedings dated 30.03.2005 and promote the petitioner in the category of Junior draughting officer and grant an appropriate fitment of scale of pay of junior Draughting officer and the monetary benefits in terms of the representation dated 27.09.2008.

For appellants : Mr.R.Rajeswaran, Spl.G.P.

For respondent: Ms.G.Thilakavathi

JUDGMENT

(The Judgment of the Court was delivered by V.Dhanapalan,J)

Heard Mr.R.Rajeswaran, learned Special Government Pleader appearing for the appellants and Ms.G.Thilakavathi, learned counsel appearing for the respondent.

2. This appeal arises out of the order of the learned single Judge made in W.P.No.1240 of 2009, dated 16.09.2009, wherein the learned single Judge has directed the appellants to pass appropriate orders on the basis of the representation of the respondent, dated 27.09.2008 and the proposal of the second appellant, dated 30.03.2005 and based on the observations made by the learned single Judge, by conferring the benefit due to the writ petitioner as Junior Draughting Officer from the year 1995 with all benefits, if there are no other legal impediments and such order was directed to be passed by the third appellant within a time frame.

3. The appellants are before this Court challenging the said order of the learned single Judge on the ground that the respondent-writ petitioner was appointed in 1978 as Blue Print Operator and he was promoted as Assistant Draughtsman along with 33 other persons and was not regularised in the said post for want of qualification and later he was reverted to the post of Blue Print Operator. Though the Government granted relaxation with respect to the age and qualification of the persons similarly placed Blue Print Operators like the respondent/writ petitioner, his name was not considered in view of the pendency of W.P.No.46271 of 1985 filed by him. It is further submitted that as per G.O.Ms.No.426, Public Works Department, dated 12.07.2004, the Government ordered relaxation of Rules with regard to the age and qualification and the respondent's service was regularised as Assistant Draughtsman with effect from 10.12.1979 and based on this order, he was also granted promotion as Assistant Draughtsman on 31.07.2004. It is further stated by the appellants that the learned single Judge failed to note that the promotion for the post of Junior Draughting Officer was forwarded only on 30.06.2006, on which date, the respondent was facing disciplinary proceedings and hence, his name was not considered for promotion.

4. To controvert the above pleadings, learned counsel for the respondent-writ petitioner submitted that the crucial date for preparation of the panel was on 12.06.1995, on which date, there was no disciplinary proceedings pending against him. However, subsequently, there was no disciplinary proceedings pending against him. The delay in forwarding his name for promotion on 30.06.2006 is not at all in accordance with the procedures and the

Rules contemplated for consideration of promotion and therefore, the learned single Judge is right in directing the appellants to consider the respondent's representation and extend the benefits, with further observation by the learned single Judge that if there are no other legal impediments for the same.

5. When that is the position, the appellants misconstrued the facts when the power is conferred upon them to decide the matter. When the Court itself directed the appellants to consider every aspect, it is not known as to why the appellants have chosen to come before this Court by filing this Writ Appeal. Therefore, in our considered opinion, there is no warranting circumstance to interfere with such direction given by the learned single Judge.

6. The Writ Appeal deserves no merit consideration and the same fails and is accordingly dismissed. No costs. The Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS III)

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Sub Asst. Registrar

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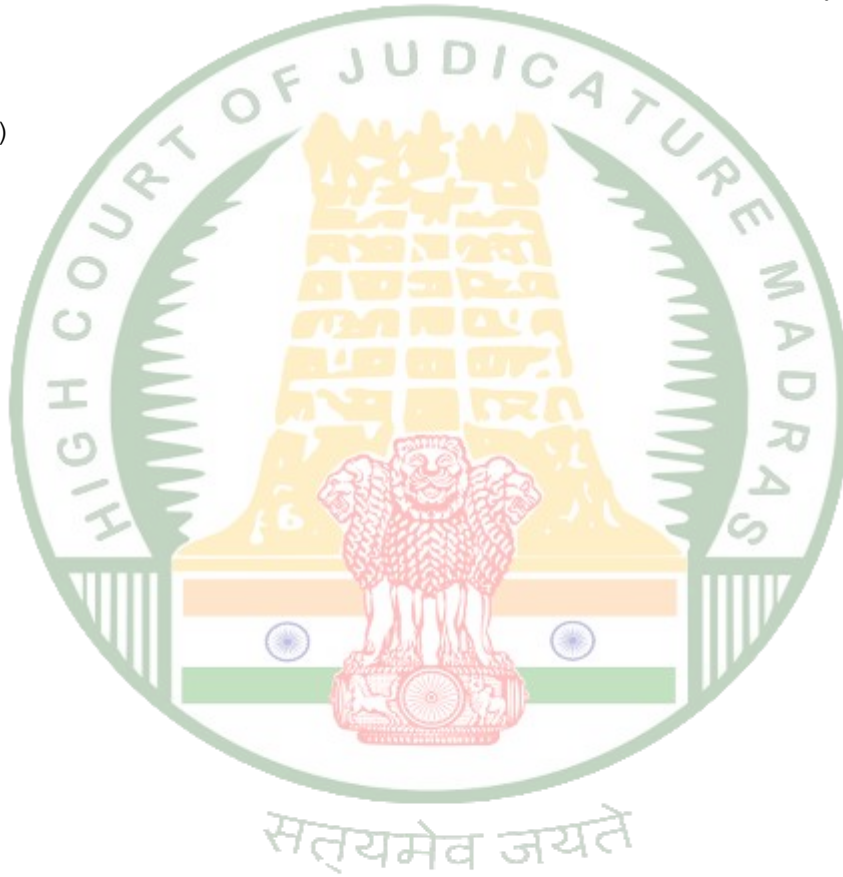
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4. Executive Engineer, P.W.D.,
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Upper Pennaiyar Basin, Dharmapuri-5.

1 cc to M/s.G. Thilakavathi, Advocate, sr. 5723
1 cc to Government pleader, Sr. 5636

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