

In the High Court of Judicature at Madras

Dated: 10.09.2015

Coram

The Honourable **Mr.JUSTICE M.SATHYANARAYANAN**

Writ Petition No.28356 of 2015

K.Raju

.... PETITIONER

Vs

1. Secretary to Government  
Housing and Urban Development Department,  
Fort St. George Chennai-600 009.
- 2 The Secretary to Government,  
Personnel and Administrative Department,  
Fort St. George Chennai-600 009.
- 3 The Chairman,  
Tamil Nadu Slum Clearance Board,  
No.5, Kamarajar Salai,  
Chennai - 600 005.
- 4 The Tamil Nadu Slum Clearance Board,  
rep. by Secretary to the Board,  
No.5, Kamarajar Salai, Chennai - 600 005.
- 5 P.Elangovan

.... RESPONDENTS

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Mandamus directing respondents 1 to 4 to consider the case of the petitioner who has already served as Superintending Engineer for 2 1/2 (two and half) years as on

31.7.2015 for promotion and appointment as Chief Engineer in Slum Clearance Board by relaxing Rule 7 of the Tamil Nadu Slum Clearance Board Engineering Officers Service Rules, 1972 only to the extent of 2 1/2 years as Superintending Engineer as on 31.07.2015.

For Petitioner : Mr.S.Vadivelu

For Respondents: Mr.R.Vijayakumar, AGP - R1 & R2  
Mr.R.V.Babu for R3 and R4

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### **ORDER**

By consent, the Writ Petition itself is taken up for final disposal.

2. The petitioner would state that at present there are two posts of Chief Engineer and one of the posts, is temporary and specially created in G.O.(D) No.95 dated 31.07.2015 for appointment/re-employment of the 5th respondent with effect from 01.08.2015. According to the petitioner, the said post is distinct and separate from the regular post of Chief Engineer, Tamil Nadu Slum Clearance Board and the other regular post of Chief Engineer is vacant right from 31.07.2015. It is the case of the petitioner that he is having all necessary qualification to be appointed to the regular post of Chief Engineer and according to him, the period of 2 1/2 years in which he was holding additional charge of Superintending Engineer is also to be

counted for considering his claim to the regular post of Chief Engineer. He relied upon G.O.Ms.No.108, Housing and Urban Development, in and by which, the name of R.Jayaraman, Superintending Engineer, Tamil Nadu Slum Clearance Board was included in the panel fit for appointment to the post of Chief Engineer. The petitioner would state that since he is similarly placed, his prayer has to be considered.

3. The grievance now expressed by the petitioner is that by accommodating the fifth respondent, who retired as a Chief Engineer, through re-employment, his chance of promotion to the post of Chief Engineer is some what diminished. Therefore, he came forward to file this Writ Petition

4. For considering his case for appointment to the post of Chief Engineer by relaxing Rule 7 of the Tamil Nadu Slum Clearance Board, Engineering Officers Service Rules, 1972, as to the experience, learned counsel appearing for the petitioner would submit that admittedly the petitioner has acted as a Superintending Engineer for a period of 2 1/2 years and in similar facts and circumstances, the claim of Mr.Jayaraman has been considered and since the petitioner is having requisite experience to act as Chief Engineer, in all fairness, the fourth

respondent has to relax Rule 7 of the Tamil Nadu Slum Clearance Board, Engineering Officers Service Rules, 1972 to the extent of 2 1/2 years and prays for appropriate orders.

5. Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of respondents 1 and 2 as well as the learned Standing Counsel, who accepts notice on behalf of respondents 3 and 4 would submit that admittedly, the petitioner did not make a challenge to the re-employment of the 5th respondent and therefore, the Writ Petition as framed, is not maintainable and prays for dismissal of this Writ Petition.

6. This Court has carefully considered the rival submissions of both sides and also perused the typed set of documents. Though the petitioner has prayed for a larger relief, this Court, in the light of above facts and circumstances, without going into the merits of the claim projected by either parties, directs the third respondent to consider the representation of the petitioner dated 31.07.2015 after putting on notice the persons concerned and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to

the petitioner as well as to the persons concerned.

The Writ Petition is disposed of accordingly. No costs.

Index :Yes/No

Internet:Yes/No

10.09.2015

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To

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**M.SATHYANARAYANAN,J.**

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