

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.21722 of 2014
and
M.P.No.1 of 2014

Y.Amarnath

[Petitioner]

Vs

- 1 Chennai Metropolitan Water
Supply and sewerage Board
rep. its Board of Directors
No.1 Pumping Station Road
Chintadripet Chennai-2
- 2 Principal Secretary/Managing Director
Chennai Metropolitan Water
Supply and sewerage Board
No.1 Pumping Station Road
Chintadripet Chennai-2

[Respondents]

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus calling for the concerned records from the 1st respondent quash the order of the 1st respondent dated 10.5.2012 bearing Proceedings NO. P & A/STF/RA1/16190/2012 communicated by the 2nd respondent in so far as passing over the name of the petitioner in the panel as illegal arbitrary and contrary to law and promote the petitioner to the post of Executive Engineer from the date when his immediate junior was promoted with all consequential benefits

For Petitioner : Mr.S.Balan Haridas

For Respondents : Mr.T.Gowthaman

O R D E R

The name of the petitioner was not included in the panel for promotion to the post of Executive Engineer on the ground that the punishment of stoppage of increment for one year dated 27.06.2008 was in operation during the check period of 5 years. An employee junior to the petitioner was promoted to the post of Executive Engineer in 2012. According to the petitioner, the punishment was over by 01.04.2010 and as such there was no impediment to include his name in the panel prepared on 10.05.2012. The petitioner was subsequently promoted as Executive Engineer on 03.02.2014. The present prayer is to quash the order dated 10.05.2012 and to give him promotion to the post of Executive Engineer from the date on which his immediate junior was promoted.

2. Heard the learned counsel for the petitioner and the learned standing counsel for the Chennai Metropolitan Water Supply and sewerage Board.

3. The issue raised by the petitioner with regarding to passing over on the ground of punishment is no more res integra in view of the decision of the Full Bench in The Deputy Inspector General of Police, Thanjavur Range and another vs. V.Rani reported in 2011 (3) CTC 129 . The Full Bench very clearly stated that there can be no impediment to promote an employee after the expiry of the punishment period and there can be no check period.

4. The issue raised by the petitioner was the subject matter in W.P.No.19771 of 2014 and the petitioner therein was a similarly situated person. This Court by following the Judgment in Rani's case, allowed the writ petition. The petitioner herein is similarly situated and as such he is entitled to the benefits of the law declared by the Full Bench.

5. In the result, the impugned order dated 10.05.2012 passed by the 1st respondent is set aside. The 1st respondent is directed to pass consequential order giving promotion to the petitioner from the date on which his immediate junior was promoted. He should also be given all the consequential benefits except monetary benefits. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Board of Directors
Chennai Metropolitan Water
Supply and sewerage Board
No.1 Pumping Station Road
Chintadripet Chennai-2
- 2 Principal Secretary/Managing Director
Chennai Metropolitan Water
Supply and sewerage Board
No.1 Pumping Station Road
Chintadripet Chennai-2

1 CC to Mr.S.Balan Haridas, Advocate SR.No. 11403

1 CC to Mr.T.Gowthaman, Advocate, SR.No. 11643

W.P.No.21722 of 2014

PSI (11.03.2015)

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