

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2015

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.29225 of 2013
& M.P.Nos.1 & 2 of 2013

S. Ashok Kumar

...Petitioner

- vs. -

The State of Tamil Nadu
Rep. by the Secretary
Public Works Department
Fort St. George
Chennai-600 009.

...Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of mandamus directing the respondent to include the name of the petitioner in the panel fit for promotion to the post of Executive Engineer published on 8 November 2012 in G.O. (2D) No.95 Public Works (A1) Department in between Sl.No.33 and 34 of the said Seniority List and consequently direct the respondent to promote the petitioner to the post of Executive Engineer on such inclusion.

For Petitioner : Mr.R.Muthukumaraswamy Sr.Counsel
for Mr.A. Jenasen

For Respondents: Mr.P. Sanjaigandhi
Additional Government Pleader

ORDER

The claim made by the petitioner for promotion to the post of Executive Engineer by including his name in the panel prepared on 8 November 2012 was not considered on account of the pendency of a charge memo. The petitioner therefore filed this writ petition for a direction to the respondent for including his name in the panel for promotion to the post of Executive Engineer.

2. The petitioner earlier filed a writ petition in W.P.No.23457 of 2013 challenging the charge memo issued to him vide proceedings dated 14 February 2011. The pendency of the said charge memo was the reason to reject his claim for inclusion in the panel for the post of Executive Engineer.

3. This court vide order dated 10 June 2014 in W.P.No.23457 of 2013 quashed the charge memo issued to the petitioner. However, liberty was given to the appropriate authority to issue a fresh charge memo and thereafter to proceed in accordance with law.

4. In view of the subsequent events relating to quashing the charge memo, the petitioner seeks a direction to the second respondent to promote him to the post of Executive Engineer.

5. Since the learned Single Judge granted liberty to the respondent to initiate fresh proceedings, I have directed the learned Additional Government Pleader to take instruction as to whether any fresh charge memo was issued to the petitioner pursuant to the liberty. The learned Additional Government Pleader on instructions submitted that so far the Government have not issued charge memo to the petitioner.

6. The pendency of the disciplinary proceedings initiated by the Government pursuant to the charge memo dated 14 February 2011 appears to be the reason for non inclusion of the name of the petitioner for promotion to the post of Executive Engineer. The Government have prepared a panel containing the names of Assistant Executive Engineers fit for promotion to the post of Executive Engineer in G.O. (2D) No.95, Public Works (A1) Department dated 8 November 2012. The name of the petitioner was not included in the said list on account of the pendency of charge memo. The charge memo is no longer in existence on account of the order passed by this Court dated 10 June 2014 in W.P.No.23457 of 2013. The petitioner is therefore perfectly correct in his contention that his name should be included in the panel fit for promotion to the post of Executive Engineer published in G.O.(2D) No.95, Public Works (A1) Department dated 8 November 2012.

7. In the result, a writ in the nature of a writ of Mandamus is issued directing the respondent to include the name of the petitioner in the appropriate place in the panel fit for promotion to the post of Executive Engineer issued in G.O.(2D) No.95, Public Works (A1) Department dated 8 November 2012, in case there are no proceedings pending against him. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

8. The writ petition is allowed to the extent indicated above. Consequently, the connected MPs are closed. No costs.

-s/d-

Assistant Registrar(CO)

Dt:27/2/2015

True Copy

Sub-Assistant Registrar

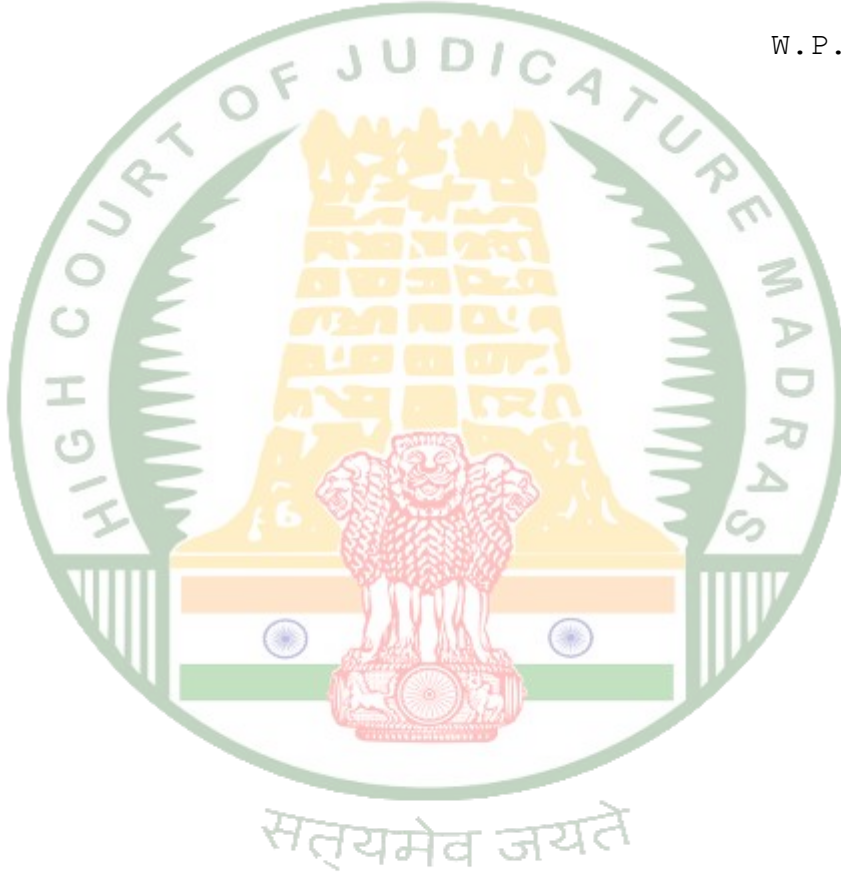
To

The Secretary to Government,
State of Tamil Nadu
Public Works Department
Fort St. George
Chennai-600 009.

+ 6 ccs to M/s.A.Jenasenan, Advocate SR 10482

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W.P.No.29225 of 2013
and MPs.



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