



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2015

CORAM:

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P. (MD) No.15846 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015

Y.Sam Daniel

... Petitioner

Vs.

1.The Secretary to Government,
Municipal Administration & Water Supply Department,
Government of Tamil Nadu,
Fort St.George, Chennai 600 009.

2.The Managing Director,
Tamil Nadu Water Supply & Drainage Board,
No.31, Kamarajar Salai,
Chepauk, Chennai 600 005.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 2nd respondent in Lr.No.24832/Estt (Per)/A5/2014, dated 07.07.2015, quash the same and consequently, direct the 2nd respondent to notionally promote the petitioner as Superintending Engineer in the 2001 panel as per the proceedings in B.P.Ms.No.164, dated 26.07.2001 on par with his juniors and disburse the terminal benefits, full pension, all monetary benefits, arrears of revised salary, periodical increment and pension together with nominal rate of interest within a reasonable time.

For Petitioner : Mr.R.Russel Raj

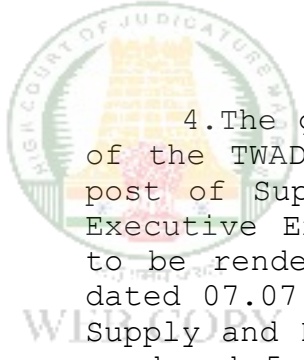
For Respondents : Mr.K.P.Krishnadoss, G.A.

O R D E R

The Writ petition has been filed by the petitioner viz., Y.Sam Daniel, seeking an order to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 2nd respondent in Lr.No.24832/Estt(Per)/A5/2014, dated 07.07.2015, quash the same and consequently, direct the 2nd respondent to give promotion to the petitioner as Superintending Engineer in 2001 panel as per the proceedings in B.P.Ms.No.164, dated 26.07.2001 on par with his juniors and disburse all monetary benefits together with nominal rate of interest within a reasonable time.

2.Mr.K.P.Krishnadoss, learned Government Advocate takes notice for the respondents. By consent, the Writ petition itself is taken up for final disposal.

3.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.



4. The grievance of the petitioner is that as per Regulation 23-II(2) of the TWAD Board Service Regulation, 1972, for giving promotion to the post of Superintending Engineer, five years of service in the cadre of Executive Engineer is necessary, out of which, two years of service has to be rendered in P.F. or office work. However, by the impugned order dated 07.07.2015, the 2nd respondent / Managing Director, Tamil Nadu Water Supply and Drainage Board, Chennai has stated that the petitioner has not rendered 5 years of service in the cadre of Executive Engineer, out of which, two years of service is required in P.F. or office work, hence, the request of giving notional promotion to the post of Superintending Engineer has been denied to the petitioner. Challenging the same, the petitioner has come to this Court with the present Writ petition.

5. The learned counsel for the petitioner would submit that as per Regulation 23-II(2), the 2 years of service in P.F. or office work, has not been rendered by the petitioner for the reason that he was implicated in a criminal case and hence, he was prevented by the respondents. But, this Court is not able to see any merits in the argument advanced by the learned counsel for the petitioner. The reason is that the petitioner's name was considered at the time of preparation of panel for Assistant Executive Engineer fit for promotion to the post of Executive Engineer. But, the charges under Regulation 9(b) of TWAD Board Employees (D&A) Regulation, 1972, were framed against the petitioner by a charge memo dated 18.11.1988 alleging certain irregularities in disposal of scrap and unserviceable materials and also an investigation was pending before the Directorate of Vigilance and Anticorruption, hence, his name was deferred in the panel of Assistant Executive Engineer fit for promotion as Executive Engineer for the year 1991 - 1992. Subsequently, another charge memo dated 08.08.1991 has been issued to the petitioner for the allegation that while appointing NMRs, the petitioner has not consulted with the Employment Exchange. Thereafter, on 04.02.1993, a final order has also been passed.

6. In addition to the above, 9(b) charges were framed by a charge memo dated 17.08.1992 alleging for defective execution and improper check in connection with Coonor WSS and thereafter, a final order dated 16.05.1997 has been passed by stating "dropping the charges". Again the petitioner suffered another charges by a charge memo dated 21.11.1997 for committing certain irregularities in execution of RWS Scheme of Ooty and HADP Division, Ooty. The petitioner was dismissed from service by proceedings dated 27.03.2000 due to conviction in a criminal charge by the First Additional District Judge cum Chief Judicial Magistrate and Special Judge at Tirunelveli in S.C.No.6 of 1994, however by a proceedings dated 23.11.2011 the petitioner was reinstated in service by passing G.O.(D)No.462, dated 17.11.2011 and thereafter, on 31.05.2003, the petitioner was permitted to retire from service on attaining the age of superannuation vide proceedings dated 23.11.2011 without prejudice to the pending departmental charges and the criminal case filed by the District Vigilance and Anticorruption. Therefore, for all these reasons, when the petitioner has not served two years of service in PF or office, it is not open to the petitioner to claim that the department only prevented him from putting 2 years of service in PF or office for he has given room for various charges.



7. In view of the above, this Court is not able to entertain this Writ petition. Accordingly, the Writ petition fails and the same is dismissed. No costs. Consequently, connected M.Ps. are closed.

Sd/-

Assistant Registrar

WEB COPY

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Municipal Administration & Water Supply Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

2. The Managing Director,
Tamil Nadu Water Supply & Drainage Board,
No. 31, Kamarajar Salai,
Chepauk, Chennai 600 005.

+1cc to Mr. R. Russel Raj, Advocate SR.No. 50767

+1cc to The Special Government Pleader, Madurai. SR.No. 51307

W.P. (MD) No. 15846 of 2015

02.09.2015

nbj

NS/SKS/02.11.2015 : 3P/5C