

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

WP.No.9526 of 2006

WPMP.No.10549 of 2006

C.Radhakrishnan ... Petitioner

Vs

1.The Government of Tamil Nadu by Secretary
Municipal Administration and Water Supply Department
Fort St.George, Chennai-9

2.The Commissioner of Municipal Administration
Chepauk, Chennai-5 ... Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the 1st Respondent in GO.(D)N.304, Municipal Administration and Water Supply (ME.4) Department, dated 16.06.2004 and the consequential order of the 2nd Respondent contained in Memorandum ROC No.67112/05/F1 dated 22.12.2005 and to quash the same and to direct the 2nd Respondent to grant promotion to Petitioner from and out of the 1992 panel as Assistant Executive Engineer and as well as the subsequent promotion as Executive Engineer with all service benefits and attendant monetary benefits.

For Petitioner : Mr.P.S.Solomon Francis

For Respondent : Mr.A.Kumar, AGP

ORDER

In this Writ Petition, the Petitioner seeks to quash the order of the 1st Respondent, dated 16.06.2004 and to direct the 2nd Respondent to grant promotion to him from and out of the 1992 panel as Assistant Executive Engineer as well as the subsequent promotion as Executive Engineer with all service benefits and attendant monetary benefits.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. The Petitioner joined the service as Overseer and thereafter, he was promoted as Junior Engineer in 1982 and then Assistant Engineer in May 1991. When he was working as Junior Engineer, he was charge sheeted by order dated 21.3.1992. In the enquiry, the charges were held not proved. However, the 2nd Respondent issued a show cause notice dated 24.6.1993, which was challenged in OA.No.5378 of 1993 and the said OA was disposed of, giving liberty to the Petitioner. Thereafter, by order dated 27.04.2002 of the 2nd Respondent, punishment of reduction to lower time scale was imposed and the Petitioner was reverted from the post of Overseer. In the appeal, the 1st Respondent by order dated 28.11.2002, confirmed the order of the 2nd Respondent. In the review petition also, by the impugned order dated 16.2.2004, the said punishment was confirmed and consequently, in the panel dated 22.12.2005, the name of the Petitioner was overlooked. Hence, the Petitioner is before this court.

4. The learned counsel for the Petitioner has assailed the impugned order mainly on the ground that the authority has prejudged the matter even in the show cause notice and the authority, at the time when inflicting punishment, even though the Petitioner was working as Assistant Engineer and he was not a Junior Engineer, he was reverted to the post of Overseer, which is wrong. The learned counsel would further contend that during the relevant point of time, there were two posts, namely, Junior Engineer, for which Diploma is required and Assistant Engineer, for which Degree is required and since the Petitioner completed B.E. Degree, he was re-designated as Assistant Engineer and hence, if at all, the Petitioner ought to have been reverted to the post of Junior Engineer only. The learned counsel further submitted that since he had already retired, the retirement benefits would have accrued by now and further the period of punishment has also been completed and hence, at least a minimum relief of retirement benefits relating to the rank of Junior Engineer may be given.

5. On the other hand, the learned Additional Government Pleader for the Respondents has submitted that after following all the formalities, including the opportunity of being heard to the Petitioner, final order has been passed, which warrants no interference by this court.

6. On a careful consideration of the materials placed on record, including the impugned order, this court is of the

considered view that though the Petitioner was admittedly working as Assistant Executive Engineer at the relevant point of time, the authority, while inflicting punishment, has chosen to post him in the post of Overseer, which is two ranks below the rank of the Petitioner, i.e. Assistant Engineer, which is not proper and correct and if at all, he ought to have reverted to the post of Junior Engineer and on these grounds, the impugned order is vitiated, however, the impugned order can be modified only to the limited extent.

7. Accordingly, the punishment of reduction in rank to the post of Overseer is modified into one that of Junior Engineer and to that extent, the impugned order is modified and accordingly, since the Petitioner had already retired, the retirement benefits would also be restricted to the post of Junior Engineer only and this Writ Petition is partly allowed to the limited extent indicated above. No costs. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Srcm

To:

- 1.The Government of Tamil Nadu by Secretary
Municipal Administration and Water Supply Department
Fort St.George, Chennai-9
- 2.The Commissioner of Municipal Administration
Chepauk, Chennai-5.

+1cc to Mr.P.Solomon Francis, Advocate Sr.36361

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