

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.31513 of 2016

And

W.M.P.No.27352 of 2016

T.S.Parthiban

... Petitioner

Vs.

- 1 Government of Tamilnadu
Rep. by Secretary to Government,
Public Works Department,
Secretariat, Chennai – 600 009.
- 2 Engineer in Chief,
Water Resources Department and
Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai – 600 005.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to consider the claim of the petitioner in the light of the Judgment dated 22.12.2014 and 08.09.2008 in W.P.Nos.33586 & 33587 / 2014 and W.P.Nos.26616 to 26620 of 2006, respectively, rendered by this Hon'ble High Court and to pass appropriate orders including the name of the petitioner in the appropriate place in the 1997 panel for promotion to the post of Junior Engineers and to promote the

petitioner, as such with retrospective effect from the date of promotion of immediate Junior in the cadre of Technical Assistant on notional basis and to grant the consequential service benefits.

For Petitioner : Mr.M.Ravi
For Respondents : Mr.R.Venkatesh
Government Advocate

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The present writ petition has been filed seeking a Mandamus directing the respondents herein to consider the claim of the petitioner in the light of the Judgment dated 22.12.2014 and 08.09.2008 in W.P.Nos.33586 and 33587 of 2014 and W.P.Nos.26616 to 26620 of 2006, respectively, rendered by this Court and to pass appropriate orders, including the name of the petitioner in the appropriate place in the 1997 panel for promotion to the post of Junior Engineers and to promote the petitioner, as such with retrospective effect from the date of promotion of immediate Junior in the cadre of Technical Assistant on notional basis and to grant the consequential service benefits.

3.In the affidavit filed in support of this petition, it has been stated that the petitioner was initially appointed on 05.09.1984 as

Technical Assistant through Employment Exchange and he joined the service on 12.09.1984 and his service was regularized on the same date. The grievance expressed by the petitioner is that while the panel was being prepared for promotion as Junior Engineers from the category of Technical Assistant for the year 1997 by the respondent, strangely options were called for from all the candidates as to whether they express their willingness to be promoted to the said post. Firstly, there is no provision in service jurisprudence to seek options or willingness for promotion to the next higher post. There is only provision for relinquishment of promotion. Secondly, the petitioner was never informed about such exercise of option and he was not called upon to express his willingness for promotion to the post of Junior Engineer. The petitioner and few others were deprived of their empanelment in the panel for promotion as Junior Engineer of the year, 1997. However, they were subsequently included only in the year, 2004.

4.It is further stated that the petitioner came to know that similarly placed persons filed W.P.No.26616 to 26620 of 2006 challenging the order made in Pro.No.S2(2)/37715/97 dated 10.07.1997 for issuance of direction to the respondent therein to include the name of the petitioners therein in the appropriate places,

by virtue of their seniority in the feeder category, eligibility and willingness and to promote them with retrospective effect from the date of promotion of their immediate juniors with all consequential benefits and this Court vide order dated 08.09.2008, allowed the writ petitions by setting aside the impugned order.

5.It is further stated that since the petitioner is also a similarly placed person, he made representations on 28.02.2012 and on 04.11.2013, seeking the same relief and the petitioner and similarly placed other persons, who also made representations were informed that their representations would be considered during preparation of the seniority list of Junior Engineers and the petitioner was also promoted as Junior Engineer on 06.12.2004 and was re-designated as Assistant Engineer by Transfer on 24.02.2006. However, their grievances were not redressed. Hence, one K.Kannappan and K.Subramanian, similarly placed persons filed W.P.Nos.33586 and 33537 of 2014 on the file of this Court seeking directions to consider their claims in the light of the orders dated 08.09.2008 in W.P.No.26616 to 26620 of 2006 and this Court vide order dated 22.12.2014, issued directions accordingly and the orders are also implemented. Hence, the petitioner made representation dated 11.04.2016 to the second respondent, but his representation has not

yet been considered. Hence, this petition.

6. Heard the submissions of the learned counsel appearing for the petitioner and the learned Government Advocate who takes notice for the respondents.

7. Considering the submissions made on either side, this Court directs the petitioner to give a fresh representation along with a copy of this order to the respondents, within a period of two weeks from the date of receipt of a copy of this order and the respondents on receipt of the same, is directed to consider the same and pass appropriate orders, within a further period of four weeks thereafter.

8. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner and it is for the respondents to decide the matter, purely on merits.

9. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

09.09.2016

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Index: Yes / No
Internet: Yes / No

R.SUBBIAH,J.

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To

- 1 The Secretary to Government,
Public Works Department,
Secretariat, Chennai – 600 009.
- 2 Engineer in Chief,
Water Resources Department and
Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai – 600 005.

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