

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.40440 of 2016
and W.M.P.No.34506 of 2016

M.Senthilnayagam

... Petitioner

Vs.

1. Government of Tamil Nadu,
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

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct 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 him the consequential service benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.K.Dhananjayan, Spl.G.P

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct 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 him the consequential service benefits.

2. It is the case of the petitioner that he was initially appointed as Technical Assistant by proceedings dated 17.12.1984 in Pro.No.1071/84/Ni.V, of the Superintending Engineer, P.W.D. Lake Modernisation Scheme Circle, Tiruchirapalli and posted to Villupuram Sub-Division of the said Scheme. He joined duty on 21.12.1984 in the said post. His services in the said post were regularised from the same date and he completed the period of probation on 18.05.1991 FN. He was granted Selection Grade in the post of Technical Assistant from 21.12.1994 FN. By proceedings dated 24.06.1999 in Pro.No.S2(2)/52485/98 of the Engineer-in-Chief, WRD and Chief Engineer (General), P.W.D., Chennai-5, the petitioner was promoted as Junior Engineer.

3. It is further stated by the petitioner that while the panel was prepared for promotion as Junior Engineers from the category of Technical Assistant for the year 1997 by the second respondent herein, option seems to have been called for from all the candidates as to whether they express their willingness to be promoted to the said post. The petitioner was not informed about the exercise of such option and in the year 1999, on coming to know of the option, the petitioner exercised his option and was promoted to the post of Junior Engineer on 24.06.1999. It is his grievance that for no fault of the petitioner, he had been deprived of his promotion in the year 1997 itself and the delay cannot be attributed to the petitioner.

4. It is further stated by the petitioner that in respect of similarly placed persons, this Court, in W.P.Nos.26616 to 26620 of 2006, by order dated 08.09.2008, allowed the Writ Petitions by setting aside the impugned order therein. Hence, it is the case of the petitioner that he is also placed in similar position and entitled to get the benefit of promotion and other benefits. On coming to know of the said order, the petitioner gave representation, dated 04.11.2013. It is further stated that one K.Kannappan and K.Subramanian filed W.P.Nos.33586 and 33587 of 2014 seeking to consider their claim in the light of the order dated 08.09.2008 passed in W.P.Nos.26616 to 26620 of 2006 and to include their names in the panel for the year 1997 and to promote them. By order dated 22.12.2014 in W.P.Nos.33586 and 33587 of 2014, this Court issued certain directions. Thereafter,

the petitioner submitted another representation, dated 11.04.2016, which has not yet been considered. It is the further grievance of the petitioner that as per the Tamil Nadu State and Subordinate Services Rules, he is deemed to have been appointed on the date on which his immediate junior in the cadre of Technical Assistant, was appointed as Junior Engineer and the inter-se seniority for promotion to the next higher post, has to be determined only with such a deemed date of his promotion. Hence, for the above reasons, the petitioner has filed this Writ Petition, for the relief stated supra.

5. Without going into the merits of the case, considering the facts and circumstances of the case, the respondents are directed to consider the said representation of the petitioner, dated 11.04.2016 and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. While passing appropriate orders, the respondents will have to take into consideration the applicability of the order passed in W.P.Nos.26616 to 26620 of 2006, dated 08.09.2008 to the case of the petitioner.

6. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cs
Copy to

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

+lcc to M/S.M.Ravi, Advocate Sr.66864
+lcc to The Government Pleader Sr.67094

W.P.No.40440 of 2016

gm I[co]
srg 10/12/2016