

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2017

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THE HONOURABLE MR.JUSTICE **T.RAJA**

W.P. No.8046 of 2017

AM.Asokan

.. Petitioner

-VS-

1.The Principal Secretary to Government,
Public Works Department,
Fort St. George,
Chennai-600 009.

2.The Engineer-in-Chief, W.R.D. and
Chief Engineer, P.W.D., (General),
Chepauk, Chennai-600 009.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to include the name of the petitioner in appropriate place on par with the juniors especially in the approved G.O. (D) No.92, Public Works (A1) Department, dated 31.03.2017 approved panel of 30 Executive Engineers of Public Works Department fit for promotion as Superintending Engineer and promote the petitioner as Superintendent Engineer.

For Petitioner : Mr.R.Singaravelan
Senior Counsel for
Mr.T.Dharani

For Respondents : Mr.V.Jayaprakash Narayanan,
Special Government Pleader

ORDER

This writ petition has been filed by the petitioner seeking a direction to the respondents to include his name in the appropriate place on par with his juniors in the G.O. (D) No.92, Public Works (A1) Department, dated 31.03.2017 approving panel of 30 Executive Engineers of Public Works Department, fit for promotion as Superintending Engineer and promote him as Superintending Engineer.

2.Learned senior counsel appearing for the petitioner would submit that the petitioner after appointed as an Assistant Engineer in the Tamil Nadu Engineering Service in the year 1983, he was promoted as an Assistant Executive Engineer in the year 2002 and he was further promoted as an Executive Engineer in the Public Works Department in the year 2010, based on the approved panel, fit for promotion from the category of Assistant Executive Engineer. He would further submit that the grievance of the petitioner is that his name was not included in the panel in G.O. (D) No.383, Public Works (A1) Department, dated 19.08.2010 on the ground that there was a case pending against him on the file of the Tribunal for Disciplinary Proceeding Chennai in TDP Case No.28 of 2012. Since the Tribunal has held in the Inquiry Report that none of the allegation in the charges were proved against the officers involved in the said TDP Case No.28

of 2012 and also recommended for payment of compensation of Rs.1,00,000/- to the petitioner and others, the Government had dropped all the charges against the petitioner by issuing a Government Order in G.O. (D) No.67 Public Works (E1) Department dated 15.03.2017, which is extracted as under in paras 3 and 4:

"3.The Government, after careful and independent examination of the case with relevant records, decided to accept the findings of the Tribunal for Disciplinary Proceedings, Chennai, holding the charge against Thiru M.Asokan, Executive Engineer, Public Works Department, as not proved and to drop further action against him in the matter. Accordingly, the Government Order that further action against Thiru M.Asokan, Executive Engineer, Public Works Department be dropped.

4.A copy of the inquiry report of the Tribunal for Disciplinary Proceedings, Chennai is communicated to Thiru M.Asokan, Executive Engineer, Public Works Department."

Therefore, the claim of the petitioner is that when the Government in G.O. (D) No.67 Public Works (E1) Department dated 15.03.2017 has dropped all the charges and also further action against the petitioner, while issuing Government Order in G.O. (D) No.92, Public Works (A1) Department, dated 31.03.2017, the name of the petitioner should have been included for the post of Superintending Engineer. After finding that the petitioner's name has been omitted, he has given

representations on 22.03.2017 and immediately on 27.03.2017 for inclusion of his name in the panel for promotion to the post of Superintending Engineer. Even after presenting the above said representations, the petitioner's name has been omitted to be included in the panel for promotion to the said post in the said G.O. (D) No.92, Public Works (A1) Department, dated 31.03.2017. Therefore, learned counsel prays for an appropriate direction to include the name of the petitioner in the panel by passing a separate order so that the petitioner's name will not be omitted in the further promotion.

3. Since the Government has issued G.O. (D) No.67 Public Works (E1) Department dated 15.03.2017 dropping all the charges against the petitioner, the impugned G.O. (D) No.92, Public Works (A1) Department, dated 31.03.2017 could not be passed omitting the name of the petitioner to the post of Superintending Engineering. Accordingly, the respondents are directed to consider the case of the petitioner along with others shown in G.O. (D) No.92, Public Works (A1) Department, dated 31.03.2017, within a period of three weeks from the date of receipt of a copy of this order, on merits and in accordance with law.

4. With the above direction, the Writ Petition is disposed of. No costs.

10.04.2017

Speaking/Non-speaking order

Index: Yes/No

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To

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T.RAJA,J.

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