

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. No. 2513 of 2017

S. Jagannathan

...Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by the Secretary,
Agricultural Department,
Fort St. George,
Chennai - 9.
2. Tamil Nadu State Agricultural Marketing
Board rep. by the
Chief Executive Officer,
Thiru Vi Ka Industrial Estate,
Cipet Road, Guindy, Chennai 32.
3. The Asst. Executive Engineer,
Tamil Nadu State Agricultural Marketing
Board,
Vellore Sub-Division,
20, Lakshmi Nivas Nilayam,
New Sankaranpalayam Road,
Vellore 632 001.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 1st respondent to give approval/consent to the letters of the 2nd respondent dated 18.08.2014 and 23.06.2015 under which the 2nd respondent sought approval/consent for promoting the petitioner from the post of Supervisor to the post of Junior Engineer and also from the post of Junior Engineer/Asst. Executive Engineer from the date of his qualifying with retrospective effect with all monetary and attendant benefits attached to those posts.

For Petitioner :: Mr.M. Palani

For Respondents:: Mr.K. Dhananjayan,
Special Govt. Pleader

O R D E R

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

2. Mr.K. Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents.

3. The petitioner, in the affidavit filed in support of the writ petition, would aver, among other things, that he is a Diploma Holder in Civil Engineering and in the year 1985, the 2nd respondent/Board was in need of a Supervisor to look after the construction work undertaken by contractors. The petitioner applied for the said job and the 2nd respondent, after being fully satisfied with his qualifications, appointed him as casual labour with effect from 01.10.1985. In the year 1986, on the Executive Officer of the 2nd respondent board approaching the office of the District Employment Officer, Vellore, to sponsor candidates, who were holding Diploma in Civil Engineering, the petitioner's name was sponsored by the District Employment Office, Vellore, along with 20 others and in the interview conducted, the petitioner was selected, appointed and designated as Temporary Technical Assistant under nominal mustell roll and was posted to the work site of the 2nd respondent at Vellore on a daily wage of Rs.25/- After completion of 10 years of service, the petitioner made a representation to the 2nd respondent to regularise his service. In this regard, repeated representations, by way of reminders, were also sent. Since those representations have not been disposed of, the petitioner filed W.P. No. 9265 of 1995 praying for issue of a Writ of Mandamus seeking regularisation of his service in the cadre in which he was working. By order 02.02.1996, the said writ petition was dismissed by this Court with a direction to approach the Tamil Nadu Administrative Tribunal. Accordingly, the petitioner approached the said forum by filing O.A. No. 1010 of 1995 and by judgment dated 21.03.2003, the Tribunal allowed the application and issued a direction to the respondents herein to regularise the petitioner's service. Aggrieved by the said order, the official respondents filed W.P. No. 29806 of 2003, which was also dismissed by order dated 04.08.2004 and further appeal preferred before the Honourable Supreme Court in SLP No. 24113 of 2004 was also dismissed by order dated 03.12.2004. Subsequently, by order dated 04.05.2012, the 1st respondent made a rule regularising the services of the petitioner with effect from 18.11.1991, in terms of G.O.Ms. No. 107 Personnel and Administrative Reforms Department dated 05.02.1987 and the post of Technical Assistant was re-designated as Supervisor since 01.01.2006. It is further submitted by the petitioner that the

next promotional post from the post of Technical Assistant/Supervisor Grade is Junior Engineer and the qualifying service for the same is 4 years experience in the feeder category, namely, Technical Assistant/Supervisor. Since the service of the petitioner came to be regularised with effect from 18.11.1991, it is his specific case that he ought to have been promoted as Junior Engineer, immediately, after his regularisation during 1991.

4. Learned counsel for the petitioner has drawn the attention of this Court to the recommendation/proposal made by the 2nd respondent to the 1st respondent by letter No. m1/3812/2013 dated 18.08.2014 as well as another letter of the same official in Letter No. m1/3812/2013 dated 23.06.2015 and would submit that in spite of positive recommendation stating that the petitioner has to be promoted as Junior Engineer, the 1st respondent is yet to pass orders and therefore, the petitioner is constrained to approach this Court by way of this writ petition.

5. This Court heard the submissions of Mr.K. Dhananjayan, learned Special Government Pleader for the respondents.

6. In the light of the above facts and circumstances, this Court, without going into the merits of the claim projected by the petitioner, directs the 1st respondent to act on the recommendation/proposal of the 2nd respondent in Letter No. m1/3812/2013 dated 18.08.2014 as well as Letter No.m1/3812/2013 dated 23.06.2015 and pass orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner.

7. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nv
To

1. The Secretary,
The Government of Tamil Nadu,
Agricultural Department,
Fort St. George,
Chennai - 9.
2. The Chief Executive Officer,
Tamil Nadu State Agricultural Marketing Board,
Thiru Vi Ka Industrial Estate,
Cipet Road, Guindy, Chennai 32.
3. The Asst. Executive Engineer,
Tamil Nadu State Agricultural Marketing
Board,
Vellore Sub-Division,
20, Lakshmi Nivas Nilayam,
New Sankaranpalayam Road,
Vellore 632 001.

+lcc to Mr.M.Palani, Advocate SR.6481
+lcc to the Government Pleader Sr.7433

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