

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.6918 of 2010

S.Jawahar

... Petitioner

-vs-

1.The Divisional Engineer,
Highways Department,
Divisional Office,
Krishnagiri.

2.The Assistant Divisional Engineer,
Highways Department,
Divisional Office,
Dharmapuri.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to provide the petitioner with alternative employment in the Highways Department.

For Petitioner :: Mr.P.Valliappan

For Respondents :: Mr.K.Thangapandi
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to provide the writ petitioner with alternative employment in the Highways Department.

2.The learned counsel for the writ petitioner states that the writ petitioner was appointed as temporary road worker (Salai Paniyalar) on 31.10.1997, for a monthly salary of Rs.1,500/-. The grievances of the writ petitioner is that he suffered multiple fractures in his leg, on account of a road accident and subsequently, he was dismissed from service on the ground of medical invalidation, in the year 2002. Thereafter, the writ petitioner was not reappointed.

3.The learned counsel appearing for the writ petitioner further states that the case of the writ petitioner is to be considered on compassionate ground. The writ petitioner met

with a road accident and sustained multiple fractures in his leg and therefore, his case is to be considered sympathetically.

4.All public employments ought to be made only under the constitutional schemes and by following the recruitment rules in force. First of all, the writ petitioner was initially appointed in the year 1997 and dismissed from service in the year 2002, the writ petition itself was filed on 05.04.2010, after a lapse of eight years from the date of dismissal. Thus, the writ petition is to be rejected on the ground of laches also.

5.This Court is of the opinion that equal opportunity in public employment is a constitutional mandate and the authorities competent cannot deviate from the rules in force. Even reappointment, if any, is to be provided and the same is to be given only in accordance with the rules in force and not otherwise. In respect of the writ petitioner, no doubt, he was relieved from service in the year 2002 and filed the present writ petition in the year 2010, after a lapse of eight years from the date of dismissal. This apart, appointment or reappointment can never be claimed as a matter of legal right and the writ petitioner has not established even a Semblance of Right, so as to consider his claim for a direction to consider the representation.

6.Even to consider the representation, the writ petitioner has to establish his legal right. A direction to consider the representation cannot be granted in a routine manner. The Court has to consider whether the writ petitioner has got any right, which is infringed and, in the absence of any such infringement of right, the Court cannot grant the relief of direction to consider the representation. In the case of hand, the writ petitioner has failed to establish any legal right and further the writ petition itself is filed after a lapse of eight years from the date of dismissal.

7.Accordingly, the writ petition stands dismissed both on merits and as well as on the ground of laches. However, there is no order as to cost.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ah

To

1.The Divisional Engineer,
Highways Department,
Divisional Office,
Krishnagiri.

2.The Assistant Divisional Engineer,
Highways Department,
Divisional Office,
Dharmapuri.

+ 1 cc to MR. Government Pleader sr.87382

+ 1 cc to M/s. P. Valliappan, Advocate SR.82296

W.P.No.6918 of 2010

KAN(CO)
EU(08/01/2018)



WEB COPY