

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.08.2017
CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
WRIT PETITION No.17002 of 2017
and
W.M.P.No.20676 of 2017

R.Harikrishnan ... Petitioner
Vs.

1. The Principal Secretary to Government,
Rural Development & Panchayat Raj
Department, Secretariat, Chennai - 9.

2. The Director of Rural Development &
Panchayat Raj, Panagal Buildings,
Saidapet, Chennai - 15.

3. Thiru Abdul Razik,
Additional Director of Rural Development
(Establishment), Panagal Buildings,
Saidapet, Chennai - 15 ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st Respondent herein to promote the petitioner as Executive Engineer for the year 2008-2009 and as Superintending Engineer for the year 2016-2017 from the date of promotion of immediate junior with all consequential service and monetary benefits in accordance with Tamil Nadu Government Servants(Conditions of Service)Act, 2016.

For Petitioner : Mr.Ravi Shanmugam

For Respondents : Mr.S.Gunasekaran
Additional Government Pleader
for R1 & R2

O R D E R

The relief sought for in this writ petition is for a direction to promote the writ petitioner as Executive Engineer for the year 2008-2009 and as Superintending Engineer for the year 2016-2017 with effect from the date of Promotion of his immediate junior with all consequential service benefits in accordance with Tamil Nadu Government Servants(Conditions of Service)Act, 2016.

2. The learned counsel appearing for the writ petitioner states that the writ petitioner was directly appointed to the Post of Assistant Engineer on 09.12.1998 in the Rural Development and Panchayat Raj Department. His initial recruitment was through the Tamil Nadu Public Service Commission for the year 1997-1998. The writ petitioner was promoted to the Post of Assistant Executive Engineer on 18.11.2004. However, on account of certain allegations, the charge memo was issued under Rule 17(b) of the Tamil Nadu Civil Services, (Discipline and Appeal) Rules. The learned counsel appearing for the writ petitioner contended that though two set of charge memos were issued, on enquiry, both the charges were dropped against the writ petitioner and he was totally exonerated from the allegations. Thus, the writ petitioner is entitled for promotion on par with his Junior.

3. The learned counsel appearing for the writ petitioner taken this Court to the provisions of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, Schedule-XI, Part-A, II(1) and (19) of the Act reads as follows:

"(1) In cases where enquiry (except Tribunal for Disciplinary Proceedings enquiry) including preliminary or detailed enquiry by the appropriate Investigating Authority is pending against a member of service and no specific charges have been framed, promotion or appointment of such member of service shall be considered on the basis of the merit revealed through Annual Confidential Reports, Record Sheets and Punishments imposed. In cases where specific charges have been framed or charge sheet has been filed in criminal case against a member of service, promotion or appointment of such member of service shall be deferred till such proceedings are concluded. On exoneration or acquittal from the charges, a member of service shall be considered for promotion or appointment with retrospective effect from the date on which his immediate junior was promoted, if he is otherwise qualified for such promotion.

(19) The case of a member of service whose promotion or appointment has been deferred on account of any pending charges, shall be reopened after disposal of the charges and appropriate orders shall be passed on merits, either giving him promotion or appointment if he is exonerated or acquitted of the charges and if there is no other adverse factor to be reckoned or denying him promotion or appointment or giving promotion or appointment from a later date, depending upon the nature of punishment and other factors to be

reckoned in other cases. In all such cases, the appointing authority shall take suo moto action within fifteen days from the date of issue of final orders in the departmental disciplinary case or criminal case."

4. By virtue of the provisions of the said Act cited supra, the writ petitioner is entitled for promotion on par with his junior. In this regard, the writ petitioner has submitted a representation to the 1st respondent which was duly forwarded by the District Collector in Na.Ka.No.1127/2017/Pa.A1 dated 23.03.2017. Thus, the 1st respondent is directed to consider the representation submitted by the writ petitioner on 15.03.2017, by considering the provisions of the Tamil Nadu Government Servants(Conditions of Service)Act, 2016 and pass final 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.

5. The writ petitioner is directed to enclose a copy of the representation and all other relevant documents along with the copy of the order passed in this writ petition. Accordingly, the writ petition stands disposed of. However, there is no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
Rural Development & Panchayat Raj
Department, Secretariat, Chennai - 9.

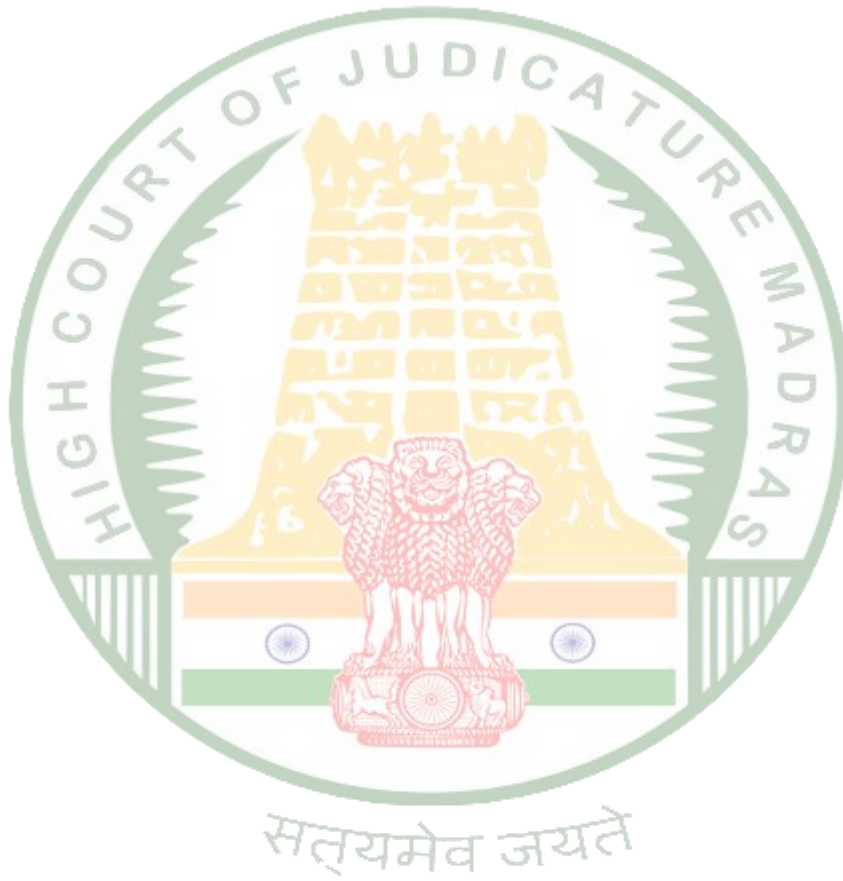
2. The Director of Rural Development &
Panchayat Raj, Panagal Buildings,
Saidapet, Chennai - 15.

3. The Additional Director of Rural Development
(Establishment), Panagal Buildings,
Saidapet, Chennai - 15

+1 cc to Mr.Ravi Shanmugam Advocate sr 58732
+1 cc to the Government Pleader sr 59314

W.P.No.17002 of 2017

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