

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM :

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P. No.2761 of 2010

and

M.P.No.1 of 2010

V.Elangovan

.. Petitioner

Vs.

1.The Secretary to Government,
Public Works Department,
Secretariat,
Fort St. George,
Chennai-9.

2.The Chief Engineer,
Public Works Department,
Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the second respondent to consider the petitioner's seniority in the Employment Exchange for the appointment of Technical Assistant and Work Inspector post in the Public Works Department.

For Petitioner : Mr.R.Karunakaran

For Respondents: Mr.M.Elumalai, GA

ORDER

Mr.R.Karunakaran, learned counsel is present on behalf of the lone writ petitioner. Both the respondents herein, who are official respondents, are represented by Mr.M.Elumalai, learned Government Advocate.

2 A counter affidavit dated 12.9.2014 has been filed by the respondents in the main writ petition. Learned Government Advocate submits that this counter affidavit can be treated as common counter affidavit on behalf of both respondents.

3 Therefore, pleadings are complete.

4 Under such circumstances, today, by consent of the learned counsel for the writ petitioner as well as the learned State Counsel, the main writ petition itself is taken up for final disposal.

5 The matter falls on a very narrow compass.

6 The writ petitioner submits that he completed Diploma in Civil Engineering and that he registered with the employment exchange in the year 1999. The writ petitioner also states that he has been renewing his registration with the employment exchange continuously till date.

7 The writ petitioner states that by virtue of his qualification, age and other attendant circumstances, he is eligible to be appointed to the post of Technical Assistant and Building Inspector in the Public Works Department, Rural Welfare Department, Highways Department and Tamil Nadu Water Supply and Drainage Board (TWAD Board).

8 It is the further case of the writ petitioner that the Tamil Nadu Government decided to appoint about 1000 aspiring candidates for the said posts all over Tamil Nadu and for the selection of candidates for the year 2009, the ratio of 5 : 1 with regard to those appointed through employment exchange and NMR was followed subject to communal rotation.

9 The writ petitioner would complain that the above procedure that was being followed has been given a go-by. In the writ petition, the writ petitioner has come up with a prayer to mandamus the respondents, particularly the second respondent to consider the petitioner's seniority in the employment exchange for appointment to the post of Technical Assistant and Work Inspector in the Public Works Department (hereinafter referred to as 'PWD' for brevity).

10 Adverting to and referring to the contents of the above said counter affidavit filed by the second respondent, learned Government Advocate Mr.M.Elumalai would contend that the petitioner's seniority in the employment exchange does not give him any right qua PWD. To that extent, learned Government Advocate is correct in his submissions.

11 It is also pointed out by the learned Government Advocate (referring to paragraphs 3,4,5 and 7 of the counter affidavit) that only 58 Technical Assistant posts are sanctioned and no Building Inspector post is sanctioned in the PWD. He

would further submit that the Government took a policy decision of bringing Nominal Muster Roll workers in the PWD into regular establishment from time to time when they complete 10 years of service. Learned Government Advocate also points out that direct recruitment to the post of Technical Assistant and Work Inspector in the PWD are made through the District Employment Exchange office concerned if sufficient hands are needed to work in the ongoing projects, depending upon the estimate of vacancies.

12 In the hearing, learned Government Advocate submits that at the time of filing of the writ petition way back in 2010, available vacancies had already been filled up. However, to be noted, respondents in paragraph 8 of the counter affidavit have submitted thus :

"8. With regards to the averment made in the paragraphs 7 and 8 of the affidavit, it is submitted that the regularisation of the Nominal Muster roll workers in this department does not affect the mode of appointment of those posts by the way of direct recruitment through the District Employment Exchange office."

13 The above is recorded.

14 Considering the rival submissions, nature of the grievance of the writ petitioner and the prayer, other than recording the above said paragraph 8 of the counter affidavit of the respondents and directing that the respondents shall adhere to the above said principle as and when future recruitment is done to the post of Technical Assistant in PWD, no other relief can be granted to the writ petitioner in this writ petition.

15 The writ petition is disposed of on the above terms. Consequently, connected miscellaneous petition is closed. No costs.

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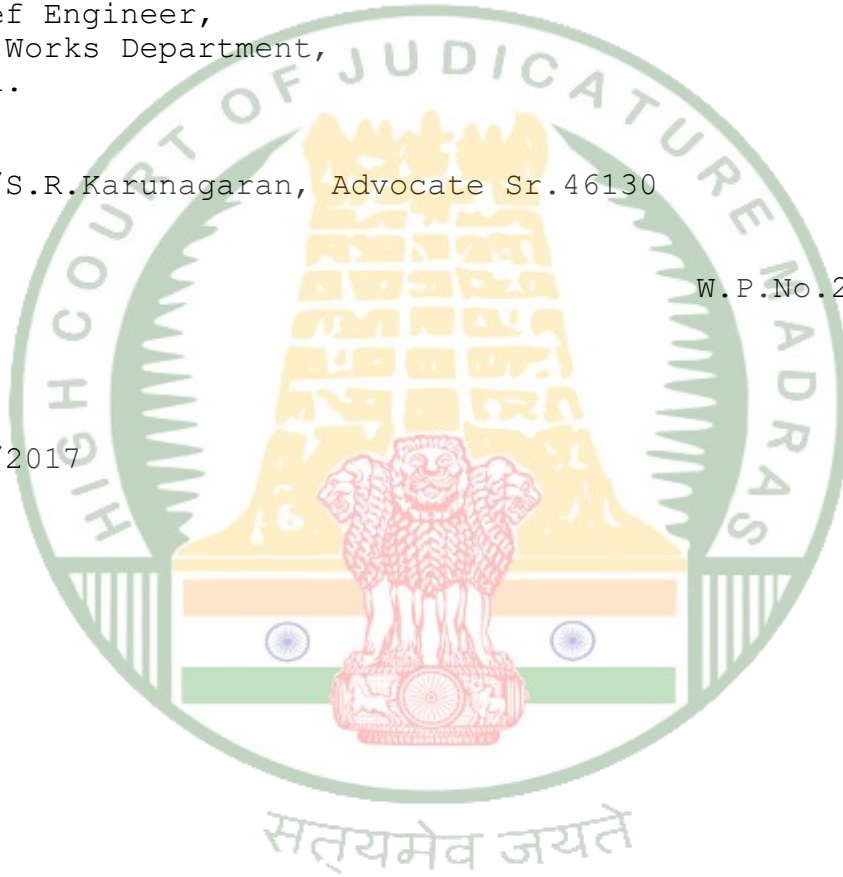
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+1cc to M/S.R.Karunagaran, Advocate Sr.46130

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