

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.32997 OF 2017

ORDER:

Heard learned counsel for the petitioner. None appeared for the respondents.

The petitioner joined as Work Inspector Grade-II in respondent Devasthanam on 19.08.1993. Subsequently, he was promoted as Work Inspector Grade-I on 02.12.1995. Thereafter, he was promoted as Assistant Executive Engineer on 04.09.2002. When the respondents were not considering his case for promotion to the post of Assistant Engineer from the post of Work Inspector Grade-I by applying various Government Orders issued from time to time, he filed W.P.No.6797 of 2001 and the same was allowed by Order dated 27.02.2006 by directing the respondents to consider the case of the petitioner. In the meanwhile, the petitioner was appointed as Assistant Executive Engineer by transfer vide proceedings dated 04.09.2002, but against the Order dated 27.02.2006 passed by this Court in W.P.No.6797 of 2001, the respondents preferred W.A.No.1130 of 2006 and the Division Bench of this Court allowed the said writ appeal along with W.A.No.1561 of 2012, on 26.11.2013. This Court held that in the absence of any amendment to the Rules, which are statutory in nature, the first respondent/petitioner herein was not entitled for any direction to consider his case for promotion to the post of Assistant Engineer from the period he acquired eligibility. It was also observed that the post of Assistant Executive Engineer is higher than the post of Assistant Engineer. The Division Bench of this Court also observed that since the petitioner accepted the promotion to the post of Assistant Executive Engineer by way of appointment by transfer, he was not entitled for any directions for retrospective consideration of his claim for promotion as Assistant Engineer. Pursuant to the said Order of the Division Bench,

when proceedings were issued on 21.02.2014 reviewing the earlier order of promoting the petitioner as Assistant Engineer with effect from 02.12.1995 pursuant to the orders of this Court in W.P.No.6797 of 2001, dated 27.02.2006, subject to the result of the outcome of W.A.No.1130 of 2006 and appointing the petitioner as Assistant Engineer with effect from 05/06.12.2001 and canceling the proceedings, dated 05/06.12.2001, the present writ petition is filed.

The Division Bench of this Court considered the issue of the promotion of the petitioner in the post of Assistant Engineer and noticed that the petitioner was appointed by transfer to the post of Assistant Executive Engineer, which is higher post than the Assistant Engineer and having accepted the post of Assistant Executive Engineer, the petitioner was not entitled for any direction for retrospective consideration of his claim for promotion as Assistant Engineer. The said finding is binding on the petitioner.

The present writ petition is filed by the petitioner seeking promotion as Assistant Engineer from the date of his eligibility, i.e., 02.12.1995 instead of 04.09.2002. It appears that the petitioner was promoted as Assistant Engineer with effect from 02.12.2005, in pursuance of the order in W.P.No.6797 of 2001, dated 27.02.2006, subject to the outcome of W.A.No.1130 of 2006.

The same cannot be considered in view of the observation of the Division Bench that in the absence of any amendment to the Rules, the petitioner was not entitled for any direction to consider his case for promotion to the post of Assistant Engineer from the period he acquired eligibility. Thus, on any ground, the petitioner is not entitled for relief sought for in the present writ petition.

The writ petition is accordingly dismissed. Consequently, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

20.11.2017
pln

