

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-12-2018

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.20474 of 2004

And

W.P.M.P.No.24635 of 2004

S.Bharathan

...Petitioner

Vs

1.The Chairperson,
Tamil Nadu Pollution Control Board,
76, Mount Salai,
Guindy,
Chennai.

2.The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai,
Guindy,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent dated 9.4.2002 issued in Memo No.Per/P1/36485/2002 and the order of the second respondent dated 4.5.2004 issued in Memo No.Per/P1/36485/2000 and quash the same and further direct the respondents to promote the petitioner as Assistant Environmental Engineer with effect from 7.7.1993 with all consequential benefits.

For Petitioner : Mr.R.Muthukannu

For Respondents : Mr.Abdul Saleem

O R D E R

The impugned order, rejecting the claim of the writ petitioner for promotion to the post of Assistant Environmental Engineer with effect from 7.7.1993, is under challenge in the present writ petition.

2. The impugned order states that the writ petitioner

Thiru S.Bharathan submitted a Practical Training Report to the Institute on 19.6.2002. The Training Report was approved and recommended for acceptance to the University of Calcutta. The writ petitioner was awarded degree at the convocation of the University of Calcutta held on 28.1.2003. Hence, he may be considered as Post Graduate Degree holder from 28.1.2003. It is further clarified in the impugned order itself that the case of the writ petitioner would be considered for promotion to the post of Assistant Environmental Engineer when promotion is considered.

3. Even at the time of filing of the writ petition, the writ petitioner was aged about 56 years and he attained the age of superannuation during the year 2006 and retired from service. Undoubtedly, the claim of the writ petitioner for promotion was considered. However, he was not promoted on account of the fact that the panel for promotion to the post of Assistant Environmental Engineer was not finalised before the date of superannuation of the writ petitioner. Thus, the case of the writ petitioner was not considered for promotion in accordance with the Rules.

4. Promotion can never be claimed as a matter of right. However, consideration for promotion of an employee is a fundamental right. Thus, an employee is entitled to be considered for inclusion of his name in the approved panel if he is otherwise qualified in accordance with the Rules.

5. At the time of consideration, the names of all the eligible persons are to be included in the panel. However, mere inclusion of the names in the panel will not confer any right on the employee to claim promotion. Only in the event of denial of right to a senior person for promotion, the same can be considered by this Court.

6. In view of the fact that the case of the writ petitioner was not considered on account of the fact that he attained the age of superannuation and retired from service, no further consideration needs to be shown in respect of the grounds raised in the present writ petition.

7. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Chairperson,
Tamil Nadu Pollution Control Board,
76, Mount Salai,
Guindy,
Chennai.

2.The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai,
Guindy,
Chennai.

+1cc to Mr.R.Muthukkannu, Advocate, S.R.No.83407

+1cc to Mr.Abdul Saleem, Advocate, S.R.No.83976

WP No.20474 of 2004

KS (CO)
GSP (20/12/2018)



WEB COPY