

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.6.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4639 of 2016

V.Narayanasamy

Petitioner

Versus

- 1 Union of India
Represented by the Secretary (Works)
Chief Secretariat U.T. of Puducherry.
- 2 The Deputy Secretary (Works)
Chief Secretariat
Union Territory of Puducherry.
- 3 The Chief Engineer
PWD Union Territory of Puducherry.
- 4 The Engineer Assistant
PWD Union Territory of Puducherry.
- 5 R.Kaliappan
- 6 V.Muthukrishnan
- 7 P.Jayabalan
- 8 R.Devadass
- 9 K.Deivasigamani
- 10 R.Subramanian
- 11 R.Shankar
- 12 K.Govindarasu
- 13 V.Velmurugan
- 14 K.Dhanigaivel
- 15 A.Loganadane
- 16 T.Rajasekaran
- 17 E.Murugan
- 18 L.Sengathir
- 19 T.Thanasilane
- 20 V.Thirumalai
- 21 K.Perumal
- 22 P.V.Subramanian
- 23 C.Coumaravel
- 24 G.Sivaselvane

25 R.Djeacoumare
26 C.Sugumaran
27 A.Premila
28 M.Kumar
29 D.Ravikumar
30 M.Thamizharasan
31 J.Sankar
32 S.Raman
33 R.Sarasvady
34 V.Govindaraju
35 S.Selvam
36 T.Djeamarane Radjy
37 E.Djeabarady
38 N.Radhakrishnan
39 K.Gnanavel
40 P.M.Sreejesh
41 T.Suganthi
42 S.Patcheappan
43 P.Ilango

44 The Registrar
The Central Administrative Tribunal
Madras Bench Chennai.

Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for records relating to the impugned order of the 44th respondent dated 29.07.2015 in O.A. No.67 of 2012 and quash the same as highly illegal, violative of Article 14 and 16 of the Constitution of India and violative of doctrine of equality in so far as the petitioner is concerned and consequentially direct the respondents to promote the petitioner as Overseer as per the seniority list dated 15.10.2008.

For petitioner : Mr.K.S.Ilango van

For RR1 to 4 : Mr.R.Syed Mustafa,
Special Government Pleader

For R40 : Ms.Y.Kavitha

For RR 5 to 39 &
41 to 43 : No appearance.

R44 : Tribunal

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ petition has been filed by the petitioner challenging the order passed by the Central Administrative Tribunal in declining to interfere with the impugned order promoting the juniors to the petitioner as Overseer, who were working as Work Inspectors.

3. It appears that originally, the petitioner and also the contesting respondents were working as Work Inspectors in the Public Works Department, Union Territory of Puducherry. As per the Recruitment Rules, the next promotions were Overseer (Junior Grade) and Overseer (Senior Grade). The educational qualification for the post of Overseer (Junior Grade) was a pass in VIII standard and a pass in prescribed trade test with 5 years of regular service and the post of Overseer (Senior Grade) was to be filled by promotion from the the candidates who had served for two years of regular service as Overseer (Junior Grade). The grievance of the petitioner is that while he is qualified to be promoted as Overseer (Junior Grade) and enlisted for promotion, his juniors were promoted to the post of Overseer and the reason behind such action on the part of the authority appears to be that an amalgamation of both the posts viz., Overseer (Junior Grade) and Overseer (Senior Grade) was made and as per the draft Recruitment Rules, the requisite qualification for the post of Overseer was fixed as a pass in X standard.

4. The learned counsel appearing for the petitioner would submit that as per the existing Rule, he was eligible as the prescribed education qualification for the post of Overseer was a pass in VIII Standard whereas, his opportunity of promotion was taken away by the draft Recruitment Rules. He would rely upon a decision in UNION OF INDIA THROUGH GOVERNMENT OF PUDUCHERRY AND ANOTHER v. RAMAKRISHNAN AND OTHERS, wherein the Apex Court, while dismissing the Civil Appeal filed by the Union of India has held that Draft Rules could not form basis for grant of promotion, when rules to contrary is holding the field.

5. Having heard the learned counsel appearing for the parties and perused the materials available on record, we do agree that in the case on hand also, sofar as the promotion to the post of Overseer from the post of Work Inspector, the qualification prescribed was a pass in VIII standard, but, the draft Recruitment Rules was introduced after amalgamation of the post of Overseer (Junior Grade) and Overseer (Senior Grade) and

the qualification as per such draft Recruitment Rules was fixed as X Standard, but, however, the same was adopted with retrospective effect which is in violation of the qualification prescribed that too with retrospective effect especially, when there is already a Rule prescribing the educational qualification is holding the filed and the post of Overseer had to be filled by way of promotion from the cadre of Work Inspector. Such being the case, the draft Recruitment Rules sought to be introduced would be in negation of the said principles of Article 309 of the Constitution of India.

6. In view of the above, the petitioner would be entitled to promotion to the post of Overseer from the post of Work Inspector. However, considering the passage of time, the delay on the part of the petitioner in challenging the impugned order and the promotions that had been granted to many other candidates in the intervening period, we make it clear that, the case of the petitioner could be considered for the post of Overseer from that of Work Inspector, however, only with prospective effect without disturbing the seniority of the other candidates, who had already been promoted. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 Union of India
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5 The Registrar
The Central Administrative Tribunal
Madras Bench Chennai.

+1cc to M/S.Achari & Antoni Associates, S.R.No.38214
+1cc to the Government Pleader, S.R.No.38458

W.P.No.4639 of 2016

GMR (CO)
CS/12/07/18



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