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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.352 of 2018

&

WMP(MD)Nos.359 & 360 of 2018

M.Lakshmanan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Water Supply and
Drainage Board,
31, Kamaraj Salai, Chepauk,
Chennai -5.

2.The Chief Engineer,
Tamil Nadu Water Supply and
Drainage Board,
Ganesh Nagar, Madurai - 7.

3.The Executive Engineer,
Tamil Nadu Water Supply and
Drainage Board,
R.W.S Division, Ganesh Nagar,
Madurai-7.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the first respondent to promote the petitioner as Driver by including his name along with others which was communicated in the letter of the first respondent in Lr.No.10268 Ve.Ni.voo/tha.a./2017 dated 21.12.2017 without reference to the age limit of 50 years.

For Petitioner : Mr.S.Govindan
for Mr.R.Rengaramanujam

For respondents : Mrs.Porkodi Karnan

O R D E R

The petitioner is holding the post of Watchman in the office of the third respondent. He is however having heavy vehicle driving licence. It is the specific assertion of the writ petitioner that he is driving the heavy vehicles for TWAD Board for the past ten years. The Assistant Executive Engineer, TWAD



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Board, R.W.S Sub Division, Madurai has given an experience certificate dated 05.10.2014 stating that the petitioner is now being engaged to drive the support vehicle of Hydro Fracture water tanker lorry in the absence of the regular driver for the past two years. There is no complaint against the writ petitioner.

2.While so, steps were taken for recruiting regular drivers on regular basis. As per the relevant service rules, the post of driver in TWAD Board can be filled up by promotion from the post of cleaner or recruitment by transfer or basic service or direct recruitment. The writ petitioner falls under the category of basic service. Therefore, he was eligible to be appointed as a driver by way of recruitment by transfer. The process to fill up the vacancies was initiated by the communication of the first respondent dated 02.08.2017. A reference was made to the said communication dated 12.10.2017 which is enclosed at Page No.20 of the typed set of papers. The name of the writ petitioner has been recommended and he finds place at Serial No.2 of the list.

3.The Board has now passed Board Proceedings in B.P.No.102 dated 27.11.2017 fixing the cut off age for the post of driver at 50 years. The petitioner herein is aged about 52 years. The contention of the writ petitioner is two fold. He would point out that the board has issued proceedings in B.P.Ms.No.46 on 31.07.2015 providing employment for the retired drivers in TWAD Board on consolidated basis. When the respondent board can engage retired drivers, there cannot be any impediment in appointing the writ petitioner on regular basis. Secondly, he would point out that the recruitment process commenced in April 2017 itself. Pursuant to the same, the writ petitioner was also duly considered and his name finds place at Serial No.2 of the letter dated 12.10.2017 issued by the Secretary, TWAD Board, Chennai. Therefore, subsequently passed board proceedings cannot be applied in the petitioner's case. He is presently in service. He is presently utilized only as a driver even though he formally holds the post of Watchman.

4.This submission of the learned counsel appearing for the petitioner is fortified by the experience certificate dated 05.10.2014 issued by the Assistant Executive Engineer, TWAD, RWS, Madurai.

5.The learned counsel appearing for the respondent board would contend that in the absence of challenge to the board proceedings in B.P.No.102 dated 27.11.2017, the present writ petition is not maintainable. I am however of the view that the case of the writ petitioner cannot be covered by B.P.No.102 dated 27.11.2017 in as much as the process for filling up the vacancies for the post of driver commenced much earlier. In this view of the matter, the writ petition is allowed and the respondents are directed to consider the case of the writ petitioner for appointment as a



driver in the respondent board without reference to the fact that he has crossed the age limit.

6.The learned counsel appearing for the respondent would point out that the interview is to be held on 30.01.2018. The writ petitioner shall participate in the same and his selection would depend on the outcome of the said interview. It is made clear that he shall not be disqualified as age barred. This writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

- 1.The Managing Director,
Tamil Nadu Water Supply and
Drainage Board,
31, Kamaraj Salai, Chepauk,
Chennai -5.
- 2.The Chief Engineer,
Tamil Nadu Water Supply and
Drainage Board,
Ganesh Nagar, Madurai - 7.
- 3.The Executive Engineer,
Tamil Nadu Water Supply and
Drainage Board,
R.W.S Division, Ganesh Nagar,
Madurai-7.

+1cc to Mr.R.RENGARAMANUJAM, Advocate, SR. 42437

+1cc to M/s.POLAX LEGAL SOLUTIONS, Advocate, SR.42391

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