

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.13403 OF 2013

ORDER

This writ petition is filed seeking the following relief:

“...to issue a writ, order or direction more particularly one in the nature of Mandamus declaring the action of the respondents in not giving seniority to the petitioner in the cadre of Draughtsman Gr.II/Assistant Technical Officer with retrospective effect from 16.11.1994 and in the cadre of Assistant Engineer from 1999 with all monetary benefits and not put the name of the petitioner in the confirmed seniority list where the exact seniority comes, as illegal, arbitrary, unconstitutional and it amounts to violation of Articles 14 and 16 of Constitution of India and consequently direct the respondents to regularize the same with retrospective effect and also to pay the monetary benefits and gratuities from that dates itself.”

Heard Sri T.Rajendra Prasad, learned counsel appearing for the petitioner and Smt K.Lalita, learned Standing Counsel appearing for the respondent-TTD.

It is the case of the petitioner that initially, he joined as NMR in the year 1979 in Engineering Department of the respondent-TTD and his services were regularized *vide* proceedings dated 25.10.1984 of the 1st respondent. Thereafter, he was promoted as Work Inspector, as Draughtsman in the year 1994 and subsequently promoted as Assistant Engineer in the year 2012.

The grievance of the petitioner is that the persons, who were appointed along with the petitioner as Draughtsman Grade-II in the year 1994, were promoted as Assistant Engineers in the year 1999 and hence, he approached the respondent-TTD and requested to grant notional promotion in the cadre of

Draughtsman Grade-II as well as Assistant Engineer on par with others. But, his case was rejected *vide* proceedings dated 23.06.2012.

Learned counsel appearing for the petitioner submits that no reasons were assigned for rejecting the case of the petitioner for retrospective promotion on par with his juniors and only a cryptic order was passed; that the petitioner is entitled for promotion with retrospective effect as Draughtsman Grade-II and Assistant Engineer; and that the proceedings dated 23.06.2012 were issued rejecting the case of the petitioner for retrospective consideration of his seniority in the cadre of Draughtsman Grade-II and Assistant Engineer, contrary to the judgment of this Court in W.P.No.16935 of 1999, dated 21.07.2006.

Learned Standing Counsel appearing for the respondent-TTD contends that the petitioner is not entitled for retrospective seniority and promotion and accordingly, his case was rejected *vide* proceedings dated 23.06.2012; that the petitioner has attained the age of superannuation and that at this point of time, the case of the petitioner cannot be considered for retrospective seniority.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the impugned rejection proceedings dated 23.06.2012 were issued without assigning any reasons. The administrative authority has to pass a reasoned order by justifying its action in rejecting the case of the petitioner. When the petitioner has

specifically pleaded that many of his juniors were assigned the seniority from 1994 in the cadre of Druaghtsman Grade-II and Assistant Engineer in the year 1999, the respondent-TTD ought to have examined the case of the petitioner in detail and pass appropriate orders by way of a speaking order. Therefore, the impugned rejection proceedings dated 23.06.2012 are liable to be set aside.

Accordingly, the impugned rejection proceedings dated 23.06.2012 are set aside and the Writ Petition is allowed. The respondent-TTD is directed to consider the case of the petitioner afresh and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

21st December, 2018
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