

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.12.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.11793 and 16558 of 2019
and WMP.No.16193 of 2019 and 21554 of 2019

N.N.Thiyagarajan

... Petitioner in both W.Ps.

-Vs-

1.The Principal Secretary to Government,
Public Works Dept.
Fort St. George,
Chennai-9.

2.The Secretary to Government,
P&AR Dept.(N) Dept.
Fort St. George,
Chennai-9.

3.The Secretary,
T.N.Public Service Commission,
Chennai-3.

4.The Engineer-in-Chief
and Chief Engineer (General),
Public Works Dept.
Chepauk,
Chennai-5.

... Respondents in both W.Ps.

W.P.No.11793 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to revise the seniority of the petitioner in the cadre of Assistant Engineer by including his name in the appropriate place in the panel of Assistant Engineer by including his name in the appropriate place in the panel of Assistant Executive Engineer (Civil) for the year 2002-03 and further revise the seniority of the petitioner in the cadre of Executive Engineer and Superintending Engineer at par with Tr.Loganathan and consequently promote him as Superintending Engineer notionally, by including his name in the panel of the year 2018-19 and further direct the respondents to consider the claim of the petitioner for promotion as Chief Engineer within a reasonable time.

W.P.No.16558 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to consider the claim of the petitioner for inclusion of his name in the panel for promotion as Chief Engineer in the Public Works Dept. in the panel for promotion as Chief Engineer in Public Works Dept. in the panel year 2019-20 based on his seniority in the panel published in G.O.(D)No.125, Public Works(A1) Dept. dt.30.05.2019 and promote him as Chief Engineer and grant him all consequential service and monetary benefits at par with his junior S.N.Rajendran and N.Krishnan.

(in both W.Ps.)

For Petitioner : Mr.K.Venkataramani
Senior Counsel for
Mr.M.Muthappan.

For Respondents : Mr.A.Zakir Hussain for RR1,2 &4
Government Advocate.
Dr.M.Devenderan for R3
Standing Counsel.

O R D E R

The issues involved in both the writ petitions are common and therefore, both the writ petitions are dealt with together and a common judgment is passed.

2.The petitioner has sought for issuance of Writ of Mandamus directing the respondents to revise the seniority of the petitioner in the cadre of Assistant Engineer, Assistant Executive Engineer, Executive Engineer and Superintending Engineer on par with his junior by including the name of the petitioner in the respective panel and for further direction to consider his claim for promotion to the post of Chief Engineer. This relief is sought for in W.P.No.11793 of 2019.

3.When W.P.No.11793 of 2019 was pending, the petitioner was due for the promotion to the post of Chief Engineer. Therefore, the petitioner filed one more writ petition in W.P.No.16558 of 2019 seeking for a direction to the respondent to include the name of the petitioner in the panel for promotion to the post of Chief Engineer in Public Works Department, in accordance with the seniority.

4. During the pendency of this writ petition, the respondents 1 and 4 had filed their counter. The relevant paragraph of the counter is extracted hereunder:

"7. It is respectfully submitted, that the petitioner's earlier seniority No.290 was cancelled in Proceedings No.S2(2)/51475/2015, dated 20.03.2019 of the Engineer-in-Chief, Water Resources Department and Chief Engineer(General), Public Works Department and withstanding the revised seniority No.at 418-A in the cadre of Assistant Engineer, which needs to be approved by the Government by relaxing Section 40 (1) of the Tamil Nadu Government Servant (Condition of Service) Act, 2016. Necessary action in this regard is under active consideration.

8. As regards the averments put forth in paragraphs 8 to 15 and the grounds of the affidavit, it is submitted that in view of cancellation of the earlier seniority No.290 and to standby the revised seniority No.418-A of the petitioner, the revision of seniority in the cadre of Assistant Executive Engineer, Executive Engineer, Superintending Engineer is in process and will be made under due process of law."

5. In view of the specific stand that has been taken by the respondents, now the respondents seek only some time to revise the seniority of the petitioner.

6. Mr.A.Zakir Hussain, learned Government Advocate appearing on behalf of respondents 1,2 and 4 submitted that the seniority of the petitioner in the post of Assistant Executive Engineer, Executive Engineer and Superintending Engineer is under effective consideration and the process will take some more time. The learned counsel also produced a letter given by the Engineer-in-Chief of Public Works Department (PWD) dated 18.12.2019, wherein twelve weeks time is sought for, by the Government to pass necessary orders.

7. In view of the specific stand that has been taken by the respondents, there is no requirement for this Court to go into the issues raised in both the writ petitions. The fact remains that the petitioner is entitled for all the promotions in accordance with his seniority. It may take some time for the respondents to complete this process.

8. Considering the facts and circumstances of the case, there shall be a direction to the 4th and 1st respondents to proceed further with the process of revising the seniority of

the petitioner in the cadre of Assistant Engineer, Assistant Executive Engineer, Superintending Engineer and Chief Engineer in accordance with the seniority of the petitioner fixed by the respondents and pass appropriate orders within a period of eight weeks from the date of receipt of copy of this order. The petitioner is directed to bring to the notice of the 1st and 4th respondents about the orders passed by this Court in order to ensure that they comply with the directions given by this Court within the time stipulated by this Court.

9. These writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Principal Secretary to Government,
Public Works Dept.
Fort St. George,
Chennai-9.

2. The Secretary to Government,
P&AR Dept. (N) Dept.
Fort St. George,
Chennai-9.

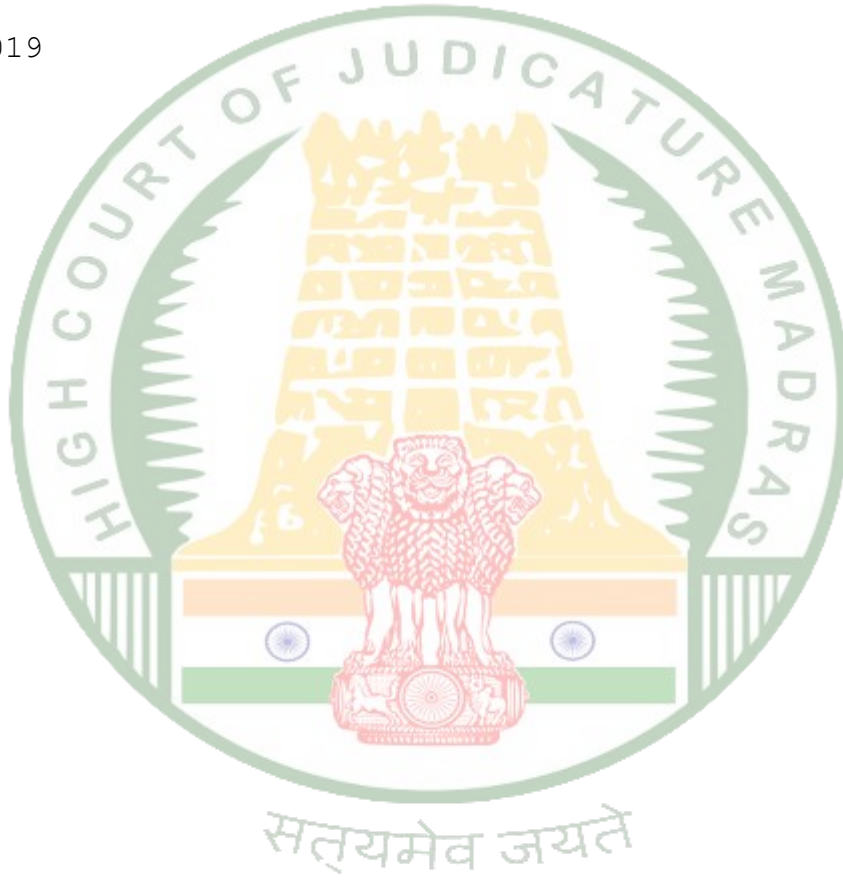
3. The Secretary,
T.N. Public Service Commission,
Chennai-3

4. The Engineer-in-Chief
and Chief Engineer (General),
Public Works Dept.
Chepauk,
Chennai-5.

+4 cc to Mr.M.Muthappan Advocate sr105983,105984

WP.Nos.11793 and 16558 of 2019
and
WMP.No.16193 of 2019

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