

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date:20.08.2019

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.No.24299 of 2019

S.Sridharan

...Petitioner

Vs.

1.The Principal Secretary to Government
Public Works (A1) Department
Fort St. George, Chennai - 9.

2.The Chief Engineer & Engineer-in-Chief
Public Works Department,
Chepauk, Chennai 5.

...Respondents

Prayer: Petition filed under Article 226 of Constitution of India, for issuance of Writ of Mandamus directing the respondents to consider the claim of the petitioner for promotion as Assistant Executive Engineer retrospectively from 1999-2000 and also grant him further promotion as Executive Engineer for the panel year 2006-07 at par with his immediate junior Thiru K.Vittal and promote him as such in the light of the representation made by the petitioner dated 21.05.2019 and grant him all consequential service and monetary benefits including retirement benefits within a reasonable time frame.

For Petitioner : Mr.M.Vignesh

For Respondents : Mr.J.Pothiraj
Special Government Pleader

ORDER

The petitioner was directly recruited as Technical Assistant in the Public Works Department on 12.06.1971. He was subsequently promoted as Junior Engineer on 12.06.1981. On acquiring B.E. Degree, he was re-designated as Assistant Engineer on 10.12.1983. According to the petitioner, he was due for promotion as Assistant Executive Engineer in 1999-2000, but was not considered due to pendency of disciplinary proceedings against him. However, in May 2001,

the petitioner appears to have been promoted as Assistant Executive Engineer pending disciplinary action. Thereafter, three charge memorandum were issued against the petitioner on 30.06.2004 and 13.10.2009. The petitioner has also reached the age of superannuation in October 2009.

2. Due to the pendency of disciplinary proceedings against him in pursuance of the above charge memorandum, his further promotion as Executive Engineer was deferred for panel years 2006-2007. Thereafter, the punishment was imposed on the petitioner, which was the subject matter of the challenge before this Court in W.P.No.32679 of 2005. This Court allowed the writ petition and set aside the punishment on 30.04.2009. However, the petitioner was not allowed to retire from service on 31.10.2009, in view of the pendency of another charge memorandum. The petitioner was therefore not allowed to retire on 31.10.2009 when he attained the age of superannuation. Ultimately, the said charge memo came to be quashed by this Court.

3. In these circumstances, the petitioner submitted a representation on 30.07.2013 for promotion as Assistant Executive Engineer retrospectively from 1999-2000 and further promotion as Executive Engineer for the panel year 2006-2007. The same was rejected on 23.09.2014 by the respondents. A further representation was submitted on 27.05.2015 and 18.09.2015. The petitioner lastly submitted his representation on 21.04.2019 and since no orders were passed, he is before this Court.

4. From the above narrative, it could be seen that the petitioner had actually retired from service 10 years before and when he made representation originally on 30.07.2013, the same was considered and rejected. According to the petitioner, the rejection was not on valid reasons. In which event, the petitioner ought to have challenged the rejection order within a reasonable time. However, the petitioner has renewed his representation in 2015 and thereafter, nothing was heard from the petitioner and he appears to have submitted his last representation on 21.04.2019. Since it was not disposed of, the petitioner has approached this Court seeking for promotion as Assistant Executive Engineer from 1999-2000 and as Executive Engineer in 2006-2007 on par with his immediate junior. The prayer as sought in the writ petition cannot be entertained even for a moment, since such claim by the petitioner herein is hopelessly time barred and hit by severe latches. One of the claims for promotion to

Assistant Executive Engineer was relating to the period nearly 20 years ago from now, which prayer cannot be entertained at this distance of time by this Court.

5. Even otherwise, the administration would be in a fix as to how such belated claim could be considered as on date, as promotion to the next higher post viz., Assistant Executive Engineer might depend on several factors, which could not be weighed with the decision, when such promotion is sought after lapse of 20 years. Only when the petitioner was considered for promotion as Assistant Executive Engineer for the year 1999-2000, his further promotion to the Executive Engineer for the panel year 2006-2007 can be considered as a consequence of promotion as Assistant Executive Engineer. Therefore, this Court is of the considered view that his original claim for promotion as Assistant Executive Engineer for the year 1999-2000 cannot be granted at this distance of time.

6. Moreover, his original request was rejected on 23.09.2014 and even thereafter five years have elapsed and there is absolutely no explanation from the side of the petitioner as to what prevented him to approach this Court very casually, even assuming that the cause of action for the petitioner arose only after conclusion of all disciplinary matters against him in 2011. In the absence of any explanation for the long delay, this Court does not think that the petitioner is entitled to seek any direction from this Court. Any interference by this Court, at the instance of the petitioner seeking for the relief sought in the writ petition, would result in administrative dislocation, which dislocation cannot be allowed to happen when the petitioner was guilty of severe laches in seeking the relief.

7. For the above said reason, this Court is unable to countenance the Writ Petition and hence, the same is dismissed. No costs.

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Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

Sgl

To

1.The Principal Secretary to Government
Public Works (A1) Department
Fort St. George, Chennai - 9.

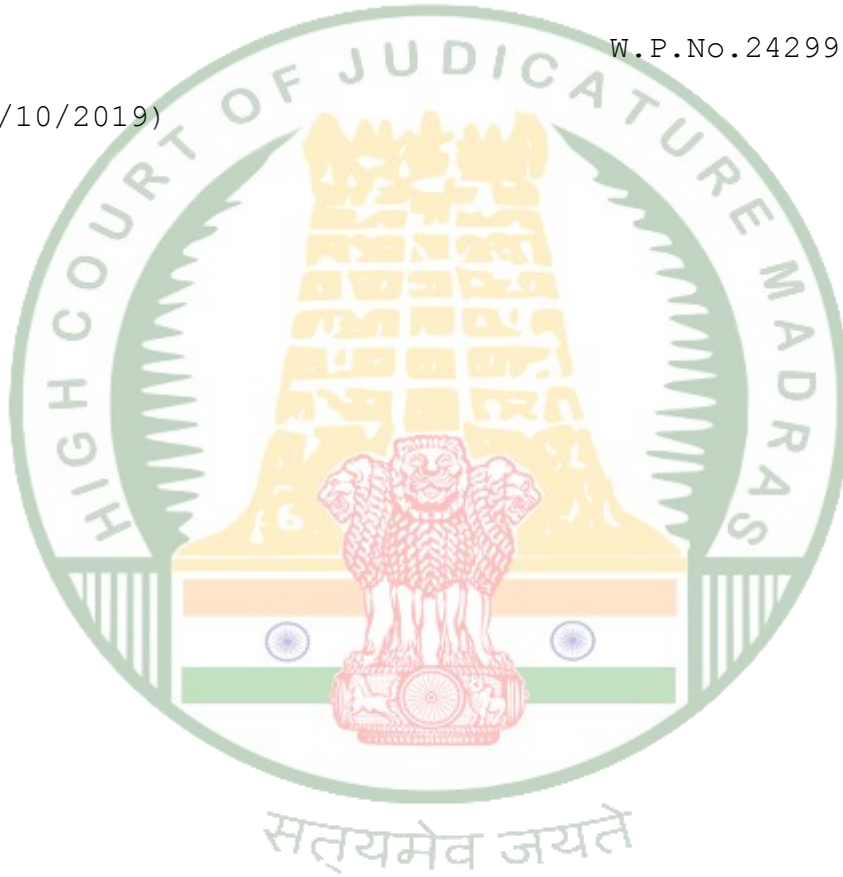
2.The Chief Engineer & Engineer-in-Chief
Public Works Department,
Chepauk, Chennai 5.

+1cc to Mr.M.Muthappan , Advocate SR.No. 71713

+1 cc to Government Pleader Sr.No. 71149

W.P.No.24299 of 2019

A.SK(18/10/2019)



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