

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.09.2019
CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No.28204 of 2019

R.Komagan

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Principal Secretary to
Government
Public Works Department,
Secretariat, Fort St. George
Chennai-600 009.

2.The Engineer-in-Chief

WRO and Chief Engineer (General),
Public Works Department,
Chepauk, Chennai-600 005.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to consider the representation submitted by the petitioner dated 19.01.2015 along with other representations and to promote the petitioner to the post of Executive Engineer on inclusion of his name in 2002-2003 panel for the post of Assistant Executive Engineer on par with juniors, with all consequential and other attendant benefits, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

This writ petition has been filed directing respondents to consider the representation submitted by the petitioner dated 19.01.2015 along with other representations and to promote the petitioner to the post of Executive Engineer on inclusion of his name in 2002-2003 panel for the post of Assistant Executive Engineer on par with juniors, with all consequential and other attendant benefits, within a time frame to be fixed by this Court.

2.The case of the petitioner is that he was appointed as Assistant Engineer in Public Works Department in the year 1983. While he was in service, the 2nd respondent has issued a charge memo as per the proceedings in CII (1) / 15303/95-I dated 25.07.1996 on the premise that the petitioner was absent from attending the duty more than one year and the petitioner had participated in the enquiry and thereafter, the 2nd respondent issued another memo as per the proceedings dated 28.10.2004 on the same ground that the petitioner was absent from 16.05.1994 onwards. However, after conducting the enquiry, final order was passed in G.O. (2D) No.48 Public Works Department, dated 17.11.2006 imposing punishment of stoppage of increment for one year with cumulative effective. In the mean time, the petitioner was reinstated into the service on 24.10.2005. In view of the pendency of the charge memo over a decade, the promotion opportunity to the post of Assistant Executive Engineer (AEE) has been deprived. Based on the seniority in the post of Assistant Engineer, the petitioner has become eligible for promotion to the post of AEE in 2002-2003 panel and further, after conclusion of the departmental action, the petitioner has also suffered punishment and the crucial period for debarring the petitioner from the promotion is also over. Hence, the petitioner is entitled for promotion to the post of Assistant Executive Engineer on inclusion of his name in 2010-2011 panel and the petitioner is due to retire from service on reaching the age of superannuation on 30.10.2019. In the circumstances, the petitioner had made a representation to the respondent to consider his promotion to the post of Assistant Executive Engineer on inclusion of his name in 2002-2003 panel and the same has not been considered till date. Hence, the petitioner has filed this writ petition.

3. The learned Government Advocate appearing for the respondents would submit that though, initially a representation was made by the petitioner with regard to the promotion to the post of Assistant Executive Engineer, it was rejected on 11.9.2014 on the ground that the petitioner is facing disciplinary proceedings.

4. Considering the facts and circumstances of the case, only the grievance of the petitioner is that the petitioner's representation dated 30.05.2013 was rejected on the premise that the disciplinary proceedings were pending. However, considering the fact that the disciplinary proceedings is also over and the petitioner has suffered punishment, there is no illegal impediment to consider the petitioner's representation dated 19.01.2015.

5. Without expressing any merits of the case, I am inclined to issue a direction to the 2nd respondent to consider the

representation made by the petitioner dated 19.01.2015, within a period of four weeks from the date of receipt of a copy of this order.

6.With the above directions, the writ petition stands disposed of. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Principal Secretary to Government
Public Works Department,
Secretariat, Fort St. George
Chennai-600 009.
- 2.The Engineer-in-Chief
WRO and Chief Engineer (General),
Public Works Department,
Chepauk, Chennai-600 005.

+1 cc to M/s.G.Sankaran Advocate sr81870

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