



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

CORAM:

THE HONOURABLE MS. JUSTICE V.M. VELUMANI

W.P. (MD) No. 11931 of 2019

and

W.M.P. (MD) No. 9022 of 2019

P. Solaimalai

... Petitioner

-Vs-

1. The Secretary to the Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
Municipal Administration,
75, Santhom High Road,
R.A. Puram,
M.R.C. Nagar,
Chennai - 600 028.

3. The Commissioner,
Madurai Municipal Corporation,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to re-designate the petitioner as Assistant Engineer from December 2009 on the basis of G.O. Ms. No. 221, dated 27.08.1992 and consequently, promote the petitioner as Assistant Executive Engineer with all attendant benefits and back wages, within the time to be stipulated by this Court.

For Petitioner: Mr. Veerakathiravan
Senior Counsel
for M/s. Veera Associates

For R1 and R2 : Mr. VR. Shanmuganathan
Special Government Pleader

For R3 : Mr. J. Gunaseelan Muthiah

ORDER

This Writ Petition has been filed seeking a direction to the respondents herein to re-designate the petitioner as Assistant Engineer from December 2009 on the basis of G.O. Ms. No. 221, dated 27.08.1992 and consequently, promote the petitioner as Assistant

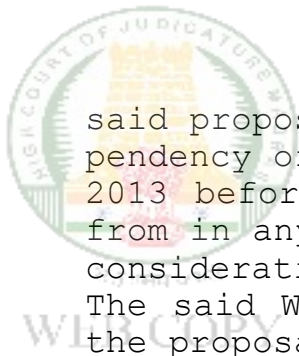


Executive Engineer with all attendant benefits and back wages, within a time frame to be fixed by this Court.

2. According to the petitioner, he was initially appointed as Electrician Motor Attender on 20.08.1990 through the Employment Exchange. After ten years of service, he was promoted as Skilled Assistant Grade - II. Further, he was promoted as Technical Assistant on 30.07.2007 and thereafter, on 20.02.2009, he was promoted as Drafting Officer. He was given further promotion to the post of Assistant Engineer during the year 2010. Subsequently, he was reverted from the post of Assistant Engineer to the post of Drafting Officer. During the year 2012, the third respondent had given In-charge to the post of Assistant Engineer. Now, he is working as Drafting Officer.

3. Further, according to the petitioner, he has completed B.E. (Civil) Engineering. He was given In-charge to the post of Assistant Engineer from 01.07.2010 in the third respondent Corporation. The third respondent has decided to fill up the post of Assistant Engineer through direct recruitment, even though the petitioner is eligible for the said post. Opposing the same, he sent a detailed representation to the respondents. One Rajasili, who was sponsored by the Employment Exchange, filed a Writ Petition, challenging the continuation of the petitioner as Assistant Engineer (In-charge) and to consider her for appointment. The said Writ Petition was dismissed, against which, she filed a Writ Appeal before this Court, wherein this Court held that Assistant Engineer cannot be allowed to continue for a period beyond six months and any individual to continue as Assistant Engineer indefinitely without filling up of the said post. Against the said judgment, the petitioner and others preferred S.L.P. before the Hon'ble Apex Court, which was dismissed.

4. After passing such order, the third respondent reverted the petitioner from the post of Assistant Engineer to the post of Technical Assistant. The said order of reversion has been challenged by the petitioner in W.P. (MD) No.14339 of 2012, wherein, this Court granted an order of interim stay. As per G.O.Ms.No.416, Municipal Administration and Water Supply Department, dated 15.09.1999, issued by the first respondent, whenever there are vacancies for the post of Assistant Engineer/Technical Assistant arise, the Officers, who are working in the junior level post, can be considered, provided they possess the required qualifications for the post of Assistant Engineer/Technical Assistant. In the said circumstances, the petitioner has given a detailed representation to the third respondent stating that he is eligible for the post of Assistant Engineer. Based on the said representation, the third respondent, vide his proceedings dated 26.04.2012, has recommended for upgradation of existing Engineering Staff to the post of Assistant Engineers and also stated that they can be posted as Assistant Engineers, by relaxing the existing service rules. The



said proposal is pending before the respondents 1 and 2. During the pendency of the said proposal, the petitioner filed W.P. (MD) No. 70 of 2013 before this Court seeking to forbear the respondents 1 and 3 from in any manner filling up the post of Assistant Engineer pending consideration of the proposal submitted by the third respondent. The said Writ Petition was disposed of with a direction to dispose the proposal, which is pending with the respondents 1 and 2, but the request of the petitioner for grant of status quo has been rejected. Hence, the petitioner has filed W.A. (MD) No. 721 of 2013 before this Court and the said Writ Appeal was disposed of with a direction to the second respondent to pass appropriate orders on the proposal sent by the second respondent, within 8 weeks from the date of receipt of a copy that judgment.

5. After passing the said order, the second respondent rejected the said proposal vide order dated 11.12.2017. Thereafter, the petitioner made a detailed representation stating that the rejection made by the second respondent is incorrect. However, recently, the petitioner came to know that the second respondent issued G.O. Ms. No. 221, Municipal Administration and Water Supply Department, dated 27.08.1992, wherein the employees, who are working as Junior Engineers, after completing B.E. Graduation, are entitled to be re-designated as Assistant Engineer from the date of completion of B.E. Degree. Based on the said Government Order, the second respondent re-designated so many persons, who have completed the B.E. Degree. Similarly, the petitioner is working as Drafting Officer, which is equivalent to the post of Junior Engineer. Hence, the petitioner is also entitled for re-designation as per the above said Government Order. In the said circumstances, the petitioner sent a detailed representation on 11.04.2019 to the respondents requesting them to re-designate him as Assistant Engineer from the date of possessing of B.E. Degree, i.e., since December 2009, but so far no action has been taken by the respondents. Hence, the petitioner has come up with the present Writ Petition for the relief stated supra.

6. I have heard the learned counsel appearing for the parties and perused the materials on record.

7. From the materials on record, it is seen that as per G.O. Ms. No. 221, Municipal Administration and Water Supply Department, dated 27.08.1992, the employees working as Junior Engineers, after completion of B.E. Degree, are entitled to be re-designated as Assistant Engineer from the date of completion of B.E. Degree. In the present case, the petitioner has completed B.E. Degree in the year 2009. Therefore, the respondents are directed to re-designate the petitioner as Assistant Engineer from the date of completion of his B.E. Degree, as per G.O. Ms. No. 221, Municipal Administration and Water Supply Department, dated 27.08.1992 and consider him for further promotion, if he is otherwise eligible. It is made clear that the petitioner is not entitled to any monetary benefits from



the date of passing of B.E. Degree to the date of re-designation and he is entitled to other service benefits.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Secretary to the Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
Municipal Administration,
75, Santhom High Road,
R.A. Puram,
M.R.C. Nagar,
Chennai - 600 028.

3. The Commissioner,
Madurai Municipal Corporation,
Madurai.

+1CC TO MR.VEERA ASSO., Advocate Sr. No.94556
+1CC TO MR.J.GUNASEELANMUTHIAH, Advocate Sr. No.94485
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 94624

W.P. (MD) No.11931 of 2019
24.10.2019

NS (CO)

TR(06.11.2019) 4P 7C