

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION Nos.10837 of 2018,
45362 of 2018 and 4913 of 2019

COMMON ORDER:

Since the issue raised in these three writ petitions is one and the same, they are being disposed of by this common order.

The petitioner in W.P.No.10837 of 2018 has contended that he was appointed as Assistant Executive Engineer during the year 2005. As per the merit list, he stood at S.No.1, but the respondents instead of fixing seniority list in the order of merit, have erroneously fixed the seniority, thereby, pushing the petitioner to a lower place in the seniority list. The petitioner has submitted a series of representations to the respondents and finally the issue of fixing seniority based on merit was resolved in favour of petitioner on 13.03.2017. The petitioner was further promoted as Deputy Executive Engineer on adhoc basis.

The grievance of petitioner is that the issue of fixing seniority in the cadre of Executive Assistant Engineer has been resolved with the publication of final seniority list on 13.03.2017, wherein the petitioner was shown at S.No.1. The petitioner further contended that the same exercise should be undertaken even in the cadre of Deputy Executive Engineer. Therefore, the respondents may be directed to prepare final seniority list in the cadre of Deputy Executive Engineer based on the seniority list of Assistant Executive Engineer and then give regular promotions to the next higher cadres.

The petitioner further contended that on 03.04.2018 this Court was pleased to grant interim direction in W.P.No.10837 of 2018 not to effect regular promotions. Therefore, the learned counsel for

petitioner contends that appropriate orders be passed in W.P.No.10837 of 2018 directing the respondents to finalize seniority list in the cadre of Deputy Executive Engineer by duly taking into account the seniority list in the cadre of Assistant Executive Engineer and further direct the respondents to effect promotions on regular basis to the next higher cadres.

As far as W.P.Nos.45362 of 2018 and 4913 of 2019 are concerned, the petitioners are contending that they are working as Deputy Executive Engineers on adhoc basis. The grievance of petitioners in these two writ petitions is that because of the interim order granted in W.P.No.10837 of 2018, the respondents are not giving adhoc promotions even to the cadre of Executive Engineer. The petitioners further contend that there are vacancies in the cadre of Executive Engineer and because of the interim order granted on 03.04.2018, the case of the petitioners is not being considered for promotion to the post of Executive Engineer on adhoc basis. Therefore, the petitioners contend that appropriate orders be passed in the writ petitions directing the respondents to effect adhoc promotions in favour of eligible candidates, who are working as Deputy Executive Engineers. As far as regular promotions are concerned, the petitioners do not have any objection, if the regular promotions are effected only after finalisation of seniority list in the cadre of Deputy Executive Engineer. Therefore, the petitioners are seeking vacation of the interim order passed by this Court in W.P.No.10837 of 2018 or at least seeking clarification that the official respondents be permitted to undertake adhoc promotions to the post of Executive Engineer in the existing vacancies.

Learned Government Pleader appearing for respondents has contended that final seniority list in the cadre of Deputy Executive Engineer would be finalized within a reasonable period of time by duly taking into account the seniority list prepared in the cadre of Assistant Executive Engineer and regular promotions would be effected only after finalisation of seniority list of Deputy Executive Engineer. However, he contends that appropriate orders be passed in the writ petition permitting the official respondents to fill up the vacancies in the cadre of Executive Engineer on adhoc basis till the seniority list is finalized in the cadre of Deputy Executive Engineer.

Therefore, all the three writ petitions are disposed of directing the respondents to finalize seniority list in the cadre of Deputy Executive Engineer, basing on the final seniority list of Assistant Executive Engineer, and then only effect promotions to the post of Executive Engineer and higher cadres on regular basis and till such time, the official respondents are directed to give promotions to the next higher post i.e., Executive Engineer on adhoc basis. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 14-03-2019
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