

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2020

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.16642 of 2007

(O.A.No.4089 of 2003)

M.Palanisamy

... Petitioner

Vs.

1.The Secretary to Government
Public Works Department,
Secretariat, Fort St.George,
Chennai - 600009.

2.The Engineer-in-Chief, W.R.O.
and Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai - 600005.

3.The Superintending Engineer,
Public Works Department,
Water Resources Organisation,
Upper Cauvery Basin Circle,
Salem - 636007.

... Respondents

PRAYER : Originally this petition has been filed as Original Application No.4089 of 2003 before the Tamil Nadu Administrative Tribunal at Chennai and after abolition of TNAT, application has been transferred and numbered as W.P.No.16642 of 2007.

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the second respondent in Letter No.S4{5} 20777/2003 dated 07.02.2003 and the impugned order passed by the third respondent in Proc.No.469/2003/E1 dated 10.03.2003 and quash these orders and consequently to direct the respondents to repay the amount so far recovered from the applicant and to refix the scale of pay of the applicant in Special Grade post of Draughting Officer with effect from 27.09.2003 onwards with arrears.

For Petitioner : Mr.R.Prem Narayan

For Respondents: Mr.P.Chinnadurai
Additional Government Pleader

ORDER

This Writ Petition has been filed calling for the records in pursuant to the impugned order passed by the second respondent in Letter No.S4{5} 20777/2003 dated 07.02.2003 and the impugned order passed by the third respondent in Proc.No.469/2003/E1 dated 10.03.2003 and quash these orders and consequently to direct the respondents to repay the amount so far recovered from the petitioner and to refix the scale of pay of the petitioner in Special Grade post of Draughting Officer with effect from 27.09.2003 onwards with arrears.

2. It is averred in the writ petition that the petitioner has filed the Original Application before the Tamil Nadu Administrative Tribunal, Chennai. Subsequently, due to abolition of the Tribunal, this matter was transferred to this Court and renumbered as W.P.No.16642 of 2007.

3. The learned counsel for the petitioner would submit that one K.Palanisamy was promoted on 27.09.1982 and the petitioner is senior to K.Palanisamy. K.Palanisamy filed the Original Application in O.A.Nos.674 & 685 of 1989, originally filed W.P.No.6355 of 1988 before this Court subsequently, the Administrative Tribunal was established and therefore, the said writ petition was transferred and numbered as T.A.No.300 of 1990 and in that petition due to the directions of the Tribunal, the Government had passed the order in G.O.Ms.No.395/Public Works (C-1) Department dated 22.06.1998 and considering all these aspects, the other persons who were senior to K.Palanisamy were given the benefit of the Government Order dated 22.06.1998 with retrospective effect from 27.09.1982, on which date, K.Palanisamy was actually promoted to the post. Subsequently, the petitioner was also considered on the basis of the Government Order in G.O.Ms.No.395/Public Works (C-1) Department, dated 22.06.1998, which came to be passed on the directions of the Tribunal dated 19.06.1991. Subsequently, the same was reversed and recovery was made. The petitioner filed the Original Application in O.A.No.4089 of 2003 before the Administrative Tribunal, which was subsequently transferred and re-numbered as W.P.No.16642 of 2007.

4. Since the petitioner was senior to K.Palanisamy, his promotion was also notionally considered with effect from 27.09.1982, after completion of 10 years of service whereas, K.Palanisamy, who is the junior was actually promoted on 27.09.1982.

5. A counter affidavit has been filed on behalf of the Public Works Department in which, paragraph No.5 states that in the case of the petitioner and few others, the third respondent has passed orders moving them to special grade even before such order was passed in favour of the junior K.Palanisamy. It was specifically of amendment to rules that were to be protected with increment and regularization benefits, there is legally no impediment in awarding selection grade on 27.09.1992 and special grade on 27.09.2002 to K.Palanisamy who was promoted on 27.09.1982 because his promotion was protected by the orders dated 19.06.1991 and whereas the Tribunal did not say anything about giving pay to those seniors on par with K.Palanisamy. It merely said to create supernumerary posts in lieu of equal number of posts in the lower category to accommodate the seniors. As such it may please be seen that there is no case for the petitioner to get his pay and status equalized with the said K.Palanisamy.

6. Learned Additional Government Pleader would submit that the Tribunal has not given any specific direction that pay has been revised at par with the junior K.Palanisamy. He would further submit that the Tribunal has given a direction to accommodate the petitioner and he was subsequently promoted with effect from 27.08.1992, therefore, he is not entitled for the promotional grade post on the notional promotion.

7. Perused the materials and records available before this Court.

8. Admittedly, Thiru.K.Palanisamy was promoted as Draughting Officer on 27.09.1982 his selection grade was considered on 27.09.1992 and a special grade was considered on 27.09.2002.

9. The learned Additional Government Pleader has rightly pointed that the petitioner was promoted only on 22.06.1992 with effect from 27.09.1982 on which date, K.Palanisamy was promoted. Therefore, K.Palanisamy was working in the said post and his selection grade was considered from 27.09.1982, whereas, the petitioner was not actually working as draughting officer from 27.09.1982, therefore his selection grade will be considered only from actual date of promotion as draughting officer i.e. from 22.06.1992, the date of completion of 10 years i.e. on 22.06.2002 and thereafter, completion of 10 years i.e. On 22.06.2012 for selection grade and special grade respectively.

10. This Court has carefully gone through the order passed by the Tribunal and the counter filed by the respondent counsel and it is seen that the petitioner is actually promoted on 22.06.1992 and therefore, he is not eligible to be considered for selection grade as 27.09.1982 therefore, there is no merit in the writ petition and it is liable to be

11. Considering the facts and circumstances of this case,
this Writ Petition stands dismissed. No costs.

-sd-

Assistant Registrar(CS)

//True copy//

Sub Assistant Registrar

To

1.The Secretary to Government
Public Works Department,
Secretariat, Fort St.George,
Chennai - 600009.

2.The Engineer-in-Chief, W.R.O.
and Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai - 600005.

3.The Superintending Engineer,
Public Works Department,
Water Resources Organisation,
Upper Cauvery Basin Circle,
Salem - 636007.

+ 1 C.C. To The Government Pleader SR.NO. 35478

W.P.No.16642 of 2007

NRJK (CO)

RRI 23/12/2020

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