

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.10.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.33108 of 2013

And

M.P.No.1 of 2013

K.V.Ganesan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Highways Department,
Fort St.George,
Chennai - 600 009.

2.The Director General,
Highways Department,
Chepauk, Chennai - 600 005.

3.The Superintending Engineer,
Highways Department,
Chennai Circle,
Guindy, Chennai - 600 025. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records relating to 2nd respondent's Memo No.15497/nirvagam.5(1)/2011 dated 17.01.2013 to quash the same and consequently direct the respondents to regularize the service of the petitioner in the post of Draughtsman Grade-I w.e.f. 15.03.1979 and to consequently revise and refix all the benefits both pension and pensionary benefits including other service benefits arising thereto.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the second respondent's Memo No.15497/nirvagam.5(1)/2011 dated 17.01.2013, to quash the same and to consequently direct the respondents to regularize the service of the petitioner in the post of Draughtsman Grade-I w.e.f. 15.03.1979 and to consequently revise and refix all the

benefits both pension and pensionary benefits including other service benefits arising thereto.

2.The case of the petitioner is that the petitioner was appointed as Assistant Draughtsman on regular basis on 24.09.1960 and was promoted as Draughtsman Grade III (now re-designated as Junior Draughting Officer) on 25.01.1963 and was further promoted as Draughtsman Grade II (now re-designated as Draughting Officer) w.e.f. 26.10.1970 and was further promoted as Draughtsman Grade I (now re-designated as Senior Draughting Officer) w.e.f. 15.03.1979. The petitioner was temporarily promoted as Junior Engineer on 29.04.1981 and he reached the age of superannuation on 31.01.2000.

3.The grievance of the petitioner is that juniors to the petitioner, namely, Vembu, Aravamudan and Kailasam were promoted to the post of Head Draughting Officer. Hence, claiming promotion on par with his juniors, the petitioner made representation to the respondents, however, his request was rejected by the second respondent. Hence, this writ petition.

4.The learned counsel appearing for the petitioner referring to the counter affidavit filed on behalf of the respondents 1 and 2 would submit that the petitioner's juniors namely, Vembu, Aravamudan and Kailasam were promoted to the post of Head Draughting Officer from the post of Junior Engineer purely on temporary basis based on the orders in O.A.Nos.52 and 78 of 1993 by the Tamil Nadu Administrative Tribunal. Challenging the same, the first respondent filed review application before the Tamil Nadu Administrative Tribunal, which on abolition of the Tribunal, was transferred to the file of this Court. He would further submit that the said review application was dismissed by this Court. Hence, there is no legal impediment for the respondents to give notional promotion to the petitioner as Head Draughting Officer on par with his juniors namely, Vembu, Aravamudan and Kailasam.

5.The learned Special Government Pleader did not dispute the facts submitted by the learned counsel appearing for the petitioner.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts in the case is not disputed. In the counter affidavit it is stated that the petitioner's juniors namely, Vembu, Aravamudan and Kailasam were promoted to the post of Head Draughting Officer from the post of Junior Engineer purely on temporary basis based on the orders in O.A.Nos.52 and 78 of 1993 by the Tamil Nadu Administrative Tribunal.

8.In the counter affidavit it is further stated that the

appointment as Head Draughting Officer and regularization of their services in the said post shall be considered only after the approval of regular panel which is pending before the Tamil Nadu Public Service Commission.

9.Further, it appears that the review application filed against the order of the Tribunal has also been dismissed by this Court. Hence, this Court is of the opinion that there is no legal impediment for the respondents to give notional promotion to the petitioner as Head Draughting Officer on par with his juniors namely, Vembu, Aravamudan and Kailasam.

10.Therefore, this Court directs the respondents to extend the notional benefits to the petitioner on par with his juniors namely, Vembu, Aravamudan and Kailasam, as the petitioner has retired from service, within a period of three months from the date of receipt of a copy of this order.

11.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal Secretary,
Highways Department,
Fort St.George,
Chennai - 600 009.
- 2.The Director General,
Highways Department,
Chepauk, Chennai - 600 005.
- 3.The Superintending Engineer,
Highways Department,
Chennai Circle,
Guindy, Chennai - 600 025.

+1cc to Mr.L.Chandrakumar Advocate SR.NO.34923
+1cc to the Government Pleader SR.NO.35027

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And
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SDR 18/12/2020