

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.2606 of 2014

and

MP No.1 of 2014

R.Mourougane

... Petitioner

vs.

1. Union of India,
represented by
The Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat, Beach Road,
Puducherry - 605 001.
2. The Chairman-cum-Secretary to Government (Education),
Staff Selection (Non-Teaching) - cum-
Departmental Promotion,
(Non-Teaching) Committee,
Pondicherry Engineering College,
Chief Secretariat, Beach Road,
Puducherry - 605 001.
3. The Under Secretary to Government (Education),
Pondicherry Engineering College,
Chief Secretariat, Beach Road,
Puducherry - 605 001.
4. The Member Secretary-cum-Director of Higher &
Technical Education,
PIPMATE Complex,
Lawspet Post,
Puducherry - 605 008.
5. The Principal,
Pondicherry Engineering College (PEC),
Pillaichavady,
Puducherry - 605 014.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the Respondents 2 to 5 to promote the Petitioner to the post of Mechanic in EEE (Electrical & Electronic Engineering Department) in the 5th Respondent's Institute namely Pondicherry Engineering College with effect from 25.10.2000 with all monetary and other

non-monetary service benefits on par with one B.Kanna Paramathma, by strictly adhering to the order dated 16.11.2012 passed in W.P.No.19078 of 2000 on the file of this Court and the order passed by the 5th Respondent in his Letter vide No.PEC/Estt./E4/PF/2011/3697 dated 02.11.2011.

For Petitioner : Mr.Prakash Adiapadam
For Respondents: Mr.D.Ravichander,
Additional Government Pleader (Pondy)

ORDER

Petitioner has come up with this Writ Petition seeking a direction to Respondents 2 to 5 to promote him to the post of Mechanic in EEE (Electrical & Electronic Engineering Department) in the 5th Respondent's Institute namely Pondicherry Engineering College with effect from 25.10.2000 with all monetary and other non-monetary service benefits on par with one B.Kanna Paramathma, by strictly adhering to the order dated 16.11.2012 passed by this Court in W.P.No.19078 of 2000 and the order passed by the 5th Respondent in his Letter vide No.PEC/Estt./E4/PF/2011/3697, dated 02.11.2011.

2. According to the Petitioner, he was appointed as Helper in the 5th Respondent Engineering College on a daily-rated basis (NMR) and that, on 20.10.1995, his services were regularized. After completing the course of Electrician in National Industrial Training Institute (NIIT), the Petitioner submitted a representation dated 07.07.2000 enclosing a copy of his Provisional National ITI Certificate (Electrician) to the 5th Respondent, requesting him to enter the same into his Service Records, as his additional Educational qualification, for considering the same at the time of promotion.

3. It is further stated by the Petitioner that, as per the Old and New Recruitment Rules (RR), from 07.07.2000 onwards, he is fully eligible for being considered for promotion to the post of 'Mechanic'. However, the Respondents, malafidely, fixed the cutoff date as 30.06.2000 for consideration of promotion for the Petitioner and his co-worker viz. B.Kanna Paramathma and promoted some other people who have obtained eligibility only after the Petitioner and had not fixed any such cutoff date for them. Having no other alternative, challenging the Promotion list dated 25.10.2000, the Petitioner filed W.P.20135 of 2000 and his co-worker viz. B.Kanna Paramathma filed W.P.No.19078 of 2000.

4. Thereafter, the 5th Respondent approached the Petitioner and the said B.Kanna Paramathma to withdraw the said

Writ Petitions. On 02.11.2011, the 5th Respondent also passed an order assuring that, their promotions would be considered in the near future. Believing the same, the Petitioner did not prosecute the Writ Petition filed by him. Hence, W.P.No.20135 of 2000 was dismissed for default. However, this Court, by an order dated 16.11.2012 allowed W.P.No.19078 of 2000 filed by the said B.Kanna Paramathma, with a direction to the 5th Respondent to consider him for promotion to the post of Mechanic with effect from 25.10.2000.

5. Pursuant to the said order of this Court, the 5th Respondent herein convened Review Departmental Promotion Committee and promoted the said B.Kanna Paramathma to the post of Mechanic with effect from 25.10.2000 with all monetary and other non-monetary service benefits. As a similarly placed person, the Petitioner gave a representation to Respondents 2 to 5, requesting them to consider him for promotion on par with the said B.Kanna Paramathma. However, the Petitioner was informed that, since the said Kanna Paramathma had obtained a Court order, his promotion would be considered first and that, the Petitioner's promotion would be considered in the next Departmental Promotion Committee.

6. Though, Respondents 2 to 5 convened four other Departmental Promotion Committee Meetings, the Petitioner's name was not considered for promotion to the post of Mechanic and the representations made by the Petitioner to consider him for the post of 'Mechanic' ended in vain.

7. It is further stated by the Petitioner that, at the time of conducting the Departmental Promotion Committee Meeting on 25.01.2014, there were totally eight vacancies to the post of Mechanic, out of which, seven vacancies were filled up and that, the Petitioner was the senior most person in the said list. The grievance of the Petitioner is that, when he is eligible to the post of Mechanic as on 07.07.2014 itself, he should have been considered for promotion at the very first DPC Meeting itself. Hence, having no other alternative, he has come up with the present Writ Petition.

8. Learned counsel for the Petitioner submitted that, the Respondents may be directed to consider the case of the Petitioner for appointment to the post of 'Mechanic' in the light of the order dated 16.11.2012 passed by this Court in W.P.No.19078 of 2000, within a reasonable time.

9. Learned Additional Government Pleader (Pondy) appearing for the Respondents submitted that, the Petitioner's name would

be considered for promotion to the post of Mechanic on par with the said Kanna Paramathma, if he is otherwise found eligible.

10. Having regard to the submissions made by the learned counsel on either side, this Court directs the Respondents herein to consider the Petitioner's name for promotion to the post of 'Mechanic', if he is otherwise found eligible and pass appropriate orders on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/
Sub Asst. Registrar

(vsi2/aeb)

To:

1. The Chief Secretary to Government,
Union of India,
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+1 cc to Mr.Prakash Advocate sr37220

W.P.No.2606 of 2014

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