



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **28.02.2020**

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.15825 of 2012

A.Kaliaperumal

... Petitioner

Vs.

1.The Chief Engineer,
Highways and Rural Works,
Chepauk,
Chennai - 600 005.

2.The Superintending Engineer,
Highways and Rural Works,
Trichy -20.

3.The Divisional Engineer,
Highways and Rural Works,
Trichy -20.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned letter of the 1st respondent in Letter No.50523/Adm.5(1)/2007, dated 11.10.2010 and quash the same as illegal, arbitrary, capricious and consequently direct the first respondent to refix the seniority of the petitioner in Selection Grade post from 23.12.1987, instead of 07.08.1992 and grant all monetary benefits attached with the post.

For petitioner : Mr.P.Ganapathi Subramanian

For respondents : Mr.S.Dhayalan,
Government Advocate

ORDER

This writ petition has been filed by the petitioner challenging the order rejecting the claim of the petitioner to grant selection grade as on the date of completion of his 10 years of service ie., on 23.12.1987, instead 07.08.1992 and for consequential direction to grant selection grade from 23.12.1987.

2. The learned counsel for the petitioner submitted that the petitioner has been inducted in Government Service as Assistant Draughtsman on 01.07.1972. He completed Trade Test for Draughtsman (Civil) in July, 1992. The petitioner was promoted as Assistant Draughtsman (Grade III) on 23.12.1977, Draughtsman on 14.11.1996 and



Senior Draughting Officer on 05.05.2003. He retired from service on 30.06.2007. As per Rules, Selection Grade ought to have been given to the petitioner from 23.12.1987 ie., on completion of 10 years of service as Assistant Draughtsman (Grade III), but Selection Grade was given only on 07.08.1992. As per G.O.Ms.No.458 (P & AR Per-M), dated 15.04.1980, who had completed ten years of service as Grade III Draughtsman and completed SSLC Fiber Cadet Course, are entitled to get Selection Grade. Further, as per G.O.Ms.No.221 (P & AR) dated 10.05.1990, when the relaxation for educational qualification is granted for a particular post, the same is applicable in the case of promotion of the employee. Based on the said G.O., the respondents ought to have promoted the petitioner as Junior Draughtsman on 23.12.1977 and his promotion was not given as per G.O.Ms.No.458 and G.O.Ms.No.221. In this regard, the petitioner has submitted his representation to the Chief Minister on 04.02.2009, which was forwarded to the first respondent on 09.04.2009.

3. The learned counsel for the petitioner would further submit that as there was no action taken by the first respondent, the petitioner has filed a writ petition in W.P.(MD).No.11170 of 2010 seeking a direction to the respondents to refix the seniority of the petitioner in the Selection Grade Post from 23.12.1987, instead 07.08.1992 and grant all monetary benefits attached with the post. This Court, by order dated 27.08.2010, directed the first respondent to consider the representation of the petitioner on merits within a period of two weeks. The first respondent, by the impugned order dated 11.10.2010, rejected the claim of the petitioner holding that though he has completed 10 years of service in Junior Draughtsman only on 23.12.1987, he has not had necessary qualification for promotion and that only as per G.O.Ms.No.276, dated 07.08.1992, the petitioner was given Selection Grade from 07.08.1992. Challenging the said order, the petitioner has filed this writ petition.

4. The learned Government Advocate appearing for the respondents submitted that the Government of Tamil Nadu has taken a policy decision to introduce 'Flexible Complimenting Scheme' to provide incentive to those Government Employees, who are languishing without any promotion and hence, paved way for advancing such persons to selection grade / special grade on completion of 10/20 years of service respectively and accordingly, issued G.O.Ms.No.458, Personnel and Administrative Reforms (Per-M) Department dated 15.04.1980 and G.O.Ms.No.68 dated 23.01.1986, wherein detailed guidelines for advancement to selection / special grade posts were laid down. One of the criteria for promotion was that the employee should have possessed qualification for promotion to the next higher grade. Subsequently, by G.O.Ms.No.276, dated 07.08.1992, such condition was relaxed and by a letter dated 14.09.1992, the Government has notified that the above said relaxation comes into force with effect from the date of G.O.Ms.No.276 ie., from 07.08.1992. In this regard, the petitioner was given selection grade with



effect from 07.08.1992. There is no merit in the writ petition. Thus, he prayed to dismiss this writ petition.

5. Heard the learned counsel for both sides and perused the records carefully.

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6. According to the petitioner, he has joined in the Highways Department as Assistant Draughtsman with the qualification of SSCL (Fiber Cadet Course) and he completed the Trade Test for Draughtsman (Civil) only in July, 1992 and that his service was regularised by G.O.Ms.No.1123/Transport, dated 10.07.1986 by relaxing the qualification. As per G.O.Ms.458, dated 15.04.1980, those who had completed 10 years of service as Grade III Draughtsman and completed SSLC Fibre Cadet Course are eligible to be promoted as selection grade and the concerned Superintending Engineer are empowered to promote them. Similarly placed persons by name Krishnan and M.Krishnamurthy had been given selection grade from the date of completion of their 10 years service. The petitioner alone has been discriminated. As the petitioner possessed the qualification ie., SSLC Fibre Cadet Course pass on the date of his joining itself, the respondents are not right in rejecting the claim of the petitioner holding that he has not possessed qualification for promotion to the next higher post. He would further submit that as per G.O.Ms.No.221, dated 10.05.1990, when relaxation of educational qualification is granted for a particular post at the time of entry into service, the same is applicable in the case of promotion of the employee and hence, as the petitioner was promoted as Junior Draughtsman on 23.12.1977, he is eligible for further promotion and also the selection grade from the date of completion of his ten years of service.

7. The main ground on which the first respondent rejected the claim of the petitioner is that though he has completed 10 years of service in Junior Draughtsman as on 23.12.1987, he has not had necessary qualification for promotion to the next higher grade and that based on G.O.Ms.No.276, dated 07.08.1992, the petitioner was given Selection Grade with effect from 07.08.1992.

8. As stated by the petitioner, the possession of qualification of SSLC and Fibre Cadet Course pass, which are necessary for promotion to the next higher grade, even before the date of joining in the post of Assistant Draughtsman, has not been considered by the first respondent. Further, as per G.O.Ms.No.221, dated 10.05.1990, once the relaxation is given by exempting a person from possessing qualifications / passing departmental/special test and other obligatory tests prescribed for the post, it should be held valid for all future promotions, where the same qualification is prescribed. As the first respondent has not considered the said aspect, this Court is inclined to set aside the impugned order and to remit the same to pass order afresh after considering the above



9. In view of the above, the impugned order is set aside and the matter is remitted to the file of the first respondent to consider the claim of the petitioner afresh in the light of the submission of the petitioner that he already possessed SSLC and Fibre Cadet Course, and G.O.Ms.No.221, dated 10.05.1990. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

10. This writ petition stands disposed of accordingly.
No costs.

Sd/-

Assistant Registrar (A.S.)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The Chief Engineer,
Highways and Rural Works,
Chepauk,
Chennai - 600 005.
- 2.The Superintending Engineer,
Highways and Rural Works,
Trichy -20.
- 3.The Divisional Engineer,
Highways and Rural Works,
Trichy -20.

+1cc to M/s.P. Ganapathi Subramanian, Advocate, SR No.9188
dated:28.05.2020.

Order made in
W.P (MD) No.15825 of 2012

Dated:28.02.2020

PU (22.05.2020) 4P 5C