



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)NO.20640 OF 2015

N.A.Jafarullah

:Petitioner

.vs.

1.The Director General of Highways,
Chepauk, Chennai.

2.The Superintendent Engineer,
Nabard and Rural Roads,
Palayamkottai,
Tirunelveli District.

3.The Divisional Engineer,
Nabard and Rural Roads,
Kattuparamakudi,
Paramakudi,
Ramanathapuram District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the third respondent dated 12.10.2015 in Memo No.1328/2015/A2 and quash the same as illegal and consequently direct the first respondent to pass an order to confer notional promotion to the Petitioner w.e.f. 22.3.2007 as Superintendent and release other monetary benefits including revised salary, terminal benefits and pension within the time fixed by this Court.

For Petitioner

:Mr.V.Sasikumar

For Respondents

:Mr.C.Ramar

Addl.Govt.Pleader

O R D E R

This Writ Petition is filed seeking issuance of a Writ of Certiorarified Mandamus to quash the impugned order of the third respondent dated 12.10.2015 in Memo No.1328/2015/A2 as illegal and consequently direct the first respondent to pass an order to confer notional promotion to the Petitioner w.e.f. 22.3.2007 as Superintendent and release other monetary benefits including revised salary, terminal benefits and pension within the time fixed by this Court.



2.The case of the Petitioner is that the Petitioner was initially appointed as Record Clerk in Highways Department on 9.10.1975 and continuously working upto 8.3.1991 and then he was promoted to the post of typist by transfer after five years of service as Record clerk, on 16.03.1981. The Petitioner has reached the selection Grade in the post of typist on 15.3.1991 and thereafter appointed as Junior Assistant by transfer and thereafter promoted as Assistant on 5.3.1998. In the post of Assistant, the petitioner reached selection grade on 16.3.2001 by taking into account the fact that the Petitioner got selection grade in the post of typist in the year 1991 itself. Finally the Petitioner retired from service on 30.6.2008. As per G.O.Ms.No.996 P and AR, dated 22.09.1984, the service of the person working as temporary staff as typist, Junior Assistant were regularized from 25.6.1984, whereas, one G.Tamizharasi initially appointed as Record Clerk and then promoted as Typist on 9.3.1981 along with the petitioner was promoted as Superintendent on 22.3.2007 and subsequently got retired. The respondents ought to have promoted the Petitioner as Superintendent on 22.3.2007 and ought to have granted the necessary monetary benefits. It is pertinent to note that one D.Nagarajan whose service has been regularized as Junior Assistant on 25.6.1984 was promoted as Superintendent on 2.4.2008 in Ramanathapuram Division. Hence the Petitioner has approached the second respondent on 24.08.2015 requesting him to grant notional promotion to the post of Superintendent from 22.03.2007 and also fix the revised salary as per the letter, dated 18.10.1988 in 4251/FRI81-9/P and AR Department. The above representation has been addressed to the first respondent through the second respondent. The second respondent who is only the forwarding authority, not competent to consider the same, has rejected the Petitioner's request on 28.9.2015 in Memo No.7 of 2015/A1 and the same was communicated through the impugned proceedings of the third respondent dated 12.10.2015 in Memo No.1328/2015/A. Hence the petitioner has come forward with this Writ Petition to quash the same and for consequential reliefs as stated supra.

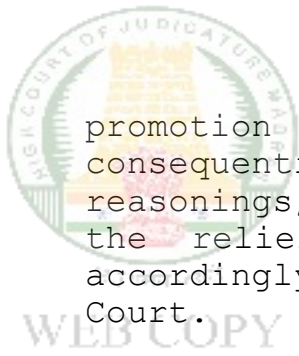
3.The learned counsel for the first respondent filed a counter affidavit denying the averments made in the Writ Petition and prayed for dismissal of the Writ Petition stating that they admitted the appointment and other averments. The Petitioner was given selection grade in the year 2001 and retired from service on 30.6.2008. The grievance of the Petitioner is that one G.Tamilarasi who is initially appointed as Record Clerk was given promotion as Superintendent on 22.3.2007 and subsequently retired and hence the Petitioner also requested the authorities to promote him as Superintendent w.e.f. 22.3.2007 and grant the monetary benefits. Though the Petitioner's request to promote him as Superintendent on par with G.Tamilarasi is not acceptable, the Petitioner has got conversion as Typist and then as Junior Assistant and subsequently promoted as Assistant. On the other hand, the above said Tamilarasi



who worked as Typist was promoted as Assistant directly from the post of typist and subsequently promoted as Superintendent, since she is senior to the Writ Petitioner in all above said cadres. The Petitioner has suppressed the fact of his conversion to the post of Junior Assistant from the post of Typist on 4.9.1991 and got his promotion only on 5.3.1998. But the said G.Tamilarasi was promoted as Assistant on 4.3.1994 itself. The Petitioner's name could not be considered for the post of Superintendent since he is junior in service and none of his juniors were promoted. The Petitioner's claim for promotion to the post of Superintendent with effect from 22.3.2007 the date on which G.Tamilarasi was promoted is not acceptable since, G.Tamilarasi was directly promoted as Assistant from the post of Typist. The Petitioner herein is junior in all respects when compared with G.Tamilarasi and his claim in this Writ Petition is devoid of merits. None of his juniors were given promotion and hence the Petitioner's request to give notional promotion and subsequently to grant consequential monetary benefits is not legally tenable and prayed for dismissal of the writ Petition.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. From the above facts, it is clear that the Petitioner has suppressed the fact of his conversion to the post of Junior Assistant from the post of Typist on 4.9.1991 and got promotion to the post of Assistant on 5.3.1998. The said Tamilarasi was promoted to the post of Assistant on 4.3.1994 itself. The Petitioner could not be considered for the post of Superintendent because he is junior to the said Tamilarasi in all aspects. Further the Petitioner has got retired from service on 30.6.2008 itself. Further from the table given in the counter, it is seen that the petitioner is holding the post of Typist from 16.3.1991, but the said Tamilarasi holding the said post from 9.3.1981. The Petitioner was promoted as Typist on 15.3.1991, but the said Tamilarasi was promoted to the post of typist in 9.3.1991 and both are in the cadre of selection grade in that post. The Petitioner was promoted as Junior Assistant on 4.9.1991 and then to the post of Assistant on 5.3.1998. But the said Tamilarasi was promoted directly to the post of Assistant from the post of Typist on 4.3.1994 itself. The Petitioner was promoted as Assistant on 16.3.2001 whereas the said Tamilarasi was promoted to the said post on 9.3.2001. The Petitioner got retired from service on 30.6.2008, however the said Tamilarasi was promoted to the post of Superintendent on 22.3.2007 and then got retired. From the above, it is seen that the said Tamilarasi is senior to the Petitioner in all aspects. Hence the authorities concerned have rightly rejected the claim of the Petitioner that was sought for in this Writ Petition. Further the petitioner has retired from service in the year 2008 and belatedly filed this Writ Petition in the year 2015 only seeking the relief to grant notional



promotion to the Petitioner from 22/3/2007 and to give consequential monetary benefits arising thereon. For all these reasonings, the Writ Petitioner has not made out a case for grant of the relief as sought for by him in the Writ Petition and accordingly, the Writ petition lacks merit and acceptance by this Court.

6.In fine,the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsn

To

1.The Director General of Highways,
Chepauk,Chennai.

2.The Superintendent of Engineer,
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Palayamkkottai,
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3.The Divisional Engineer,
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Paramakudi,
Ramanathapuram District.

+1cc to SPL GP SR.NO.11784

ORDER MADE IN
W.P(MD)NO.20640 OF 2015
13.03.2020

VB(20.03.2020) 4P 5C