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27.01.2021
S.D.

W.P.A. 2746 of 2021

**Stenly James
Vs.
The Lieutenant Governor & Ors.
(through video conference)**

Mr. Ajith Prasad

...For the petitioner.

Mr. Arun Prasant

....For the Respondent.

The writ petitioner appointed as Lineman (Electrical) on 31.12.2013 was considered for promotion by Port Blair Municipal Council through a process meant for regular promotion. The certificate of the petitioner was verified by the authorities by issuing a letter on 11.6.2012 to the Administrative Officer, Municipal Council. Then the writ petitioner submitted an application on 13.6.2012 and offered his candidature for the post of Junior Engineer (E & M). An application was further submitted on 30.11.2012 to the authorities to consider his candidature for promotion to the post of Junior Engineer (E & M) as he fulfils the qualification and recruitment criteria. In terms of the recruitment rules as it is submitted by Ms. Anjali Nag that in the post of Junior

Engineer (E & M), 80% of the posts were to be filled up by recruitment and 20% by promotion, failing which deputation. On 15.12.2012, Administrative Officer, Port Blair, Municipal Council to the Deputy Secretary, PWD (UD), Andaman & Nicobar Administration, Port Blair forwarded documents of the writ petitioner and other for filling up two posts of Junior Engineer (E & M). The said letter was forwarded along with the note of the Department Promotion Committee (DPC) to fill the posts of Junior Engineer (E & M). On 26.12.2012, the DPC was constituted which recommended the name of the petitioner along with others for promotion to the post of Junior Engineer (E & M) in the Port Blair Municipal Council. On 12.6.2013, the writ petitioner was promoted to the post of Junior Engineer (Electrical) on ad hoc basis for the period of six months. The writ petitioner continued in the said post till he is regularized vide order dated 28.1.2015. The respondent authorities issued a corrigendum and changed the designation of the petitioner vide order dated 23.2.15 which is reflected in the order dated 12.6.2013 as Junior Engineer (Electrical) to Junior Engineer (E & M). As the promotion of the petitioner was done on the basis of recommendation of the duly constituted DPC and he continued in the said post without any break, the petitioner has made a representation

on 27.2.2015 to the Secretary of Port Blair Municipal Council for regularization of the ad hoc period. The representation of the petitioner was under consideration, but as there was no response from the side of the respondent authority, the petitioner again submitted representation on 19.1.2017. But both the representations were not taken into consideration and kept in cold storage by the authorities and they proceeded to prepare and circulated provisional seniority list of Junior Engineer (E & M) on 31.1.2017. In terms of the said seniority list, the name of the petitioner was placed at serial no. 6 showing his date of appointment as 6.1.2015. Soon after coming to know about the said seniority list, the writ petitioner submitted another application and raised his objection vide letter dated 4.2.2017 but the authorities did not consider the objection of the petitioner and circulated the final seniority list on 20.4.2017. The writ petitioner submitted his objection on 16.5.2017 which was also kept pending for adjudication. Another representation was filed on 12.6.2017 by the writ petitioner and the same is also pending adjudication. As the authorities were not taking steps to fill up the next promotional post of Assistant Engineer (E & M), the petitioner was time and again approached the authorities for consideration of the representation, but the authorities did

not paid any heed. Accordingly, the petitioner has approached for issuance of writ in the nature of mandamus directing the respondent authorities to antedate the promotion of the petitioner to the post of Junior Engineer (E & M) with effect from 26.12.2012 after considering his representations and further sought for direction upon the respondent authorities to consider the candidature of the private respondents to the post of Assistant Engineer (E & M) after holding the private respondent to be not qualified for the said post as he does not fulfill the qualification criteria prescribed in the recruitment rules.

Thus, the writ petitioner has also sought for direction upon the respondent authorities to consider the representation of the aforesaid dated, i.e. 27.2.2015, 19.1.2017, 4.2.2017, 16.5.2017 and 12.6.2017.

Mr. Prasant, learned Counsel for the respondent appears and submits that the writ petition may be disposed of with a direction as sought for on behalf of the petitioner further without prejudice to the rights and contentions of the parties which may arise in favour of the respondents.

In the context of submissions and the contentions so made and bearing in mind the averments so made in the writ application, the representation placed before the respondent

authorities be considered within six weeks from the date of the communication of the order by giving opportunity of hearing to all the parties and to pass a reasoned order with the direction that the reasoned order be communicated within one week from the date of the passing of the reasoned order to the writ petitioner.

Thus, the writ application being WPA 2746 of 2021 is disposed of.

No order as to costs.

Urgent certified copies of this order, if applied for, be given to the parties upon compliance of the usual formalities.

(Shivakant Prasad, J.)