

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 15273 of 2011

S.Murali

... Petitioner

-vs-

1. The Tamil Nadu Pollution Control Board,
Represented by its Chairman,
Guindy,
Chennai - 600 032.

2. The Member Secretary,
Tamil Nadu Pollution Control Board,
Guindy,
Chennai - 600 032.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to promote the petitioner as Additional Manager in the respondent Board as per Tamil Nadu Pollution Control Board Revised Service Regulation 2010 and Tamil Nadu Pollution Control Board General Service.

For Petitioner : Mr.R.Ramanlal
for Mr.S.Selvaraj

For Respondents : Mr.C.Kasirajan
Standing counsel for TNPCB

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to promote the petitioner as Additional Manager in the respondents Board as per Tamil Nadu Pollution Control Board Revised Service Regulation 2010 and Tamil Nadu Pollution Control Board General Service.

2. The petitioner was appointed as Assistant at the respondents Board on 30.04.1991 with the qualification of M.Com., (First Class). Thereafter, he was promoted as General Assistant in the year 2000, thereafter, there was no promotion to the petitioner and he had been continuously working in that cadre namely, General Assistant. Therefore, because of the stagnation in promotion for more than a decade and the

petitioner is also having the qualification of holding the post of Additional Manager (F&A), it seems that, he had made a request to the respondents Board for considering his candidature for appointment by transfer, as per the Service Regulations, to the post of Additional Manager (F&A).

3. In this context, the petitioner has given a detailed representation on 09.06.2011 to the first respondent and since the same has not been considered, he has filed this Writ Petition with the aforesaid prayer.

4. Heard Mr.R.Ramanlal, learned counsel appearing for the petitioner who would submit that, as per the Service Regulations as issued by the Tamil Nadu Pollution Control Board, for the consideration of post Category No.13, Additional Manager (F&A), there are two methods of recruitment, one is by way of promotion and another is by way of transfer. There are prescribed qualification and all those qualification were possessed by the petitioner even at the time of appointment as an Assistant and by recruitment by transfer, the petitioner's candidature can be considered for the said post of Additional Manager (F&A).

5. In this context, the learned counsel would further submit that, the stand taken by the respondents through the counter affidavit filed sometime in the year 2018 is that, based on the request made by the petitioner and similarly placed persons already worked in the Board, the respondents had constituted a Committee consisting three members, namely, Joint Chief Environmental Engineer (Law), Manager (P&A) i/c and Manager (F&A) and this Committee would look into the matter and after examining the same, it would be given the recommendation to the said issue. These kind of requests made by the present employees of the respondents Board for getting promotion according to their educational qualification as well as experience, can be given effect to and once such recommendation comes from the Committee, accordingly, the Board will act upon.

6. Based on this stand taken by the respondents Board as reflected in the counter affidavit, the learned counsel appearing for the petitioner would contend that, if at all, any recommendation having been made by the Committee, based on which, the candidature of the petitioner can be considered by the respondents and in this regard, since nothing so far been called by the respondents, a direction to that effect can be issued as prayed for, he contended.

7. Per contra, the learned Standing counsel appearing for the respondents, by relying upon the averments made in the counter affidavit of the respondents, would submit that, the

Service Regulations 2010 to furnish the report immediately and as of now, it is not known whether the Committee has given any report recommending promotion or not and assuming, if the Committee has given a report, based on the report, what shall be the best to be done to these kind of existing employees, with regard to the promotion, a decision would be taken by the Board within a time frame.

8. I have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

9. In the counter affidavit, the following has been stated by the respondents which are quoted hereunder for easy reference:

"10. In respect para Nos.10&11 of the affidavits, it is respectfully submitted that in the Board vide BP.Ms.No.577, dated 13.08.1992 the post of 5 Joint Manager were created for the purpose of giving promotion to employees by seniority from the post of the Deputy Manager. This does not envisage promotion by Transfer of service or out of turn promotion. Hence the petitioner claim to these post cannot be entertained. This post was re-designated as Additional Manager vide BP.Ms.No.587, dated 09.09.1992. In the Board there exists no separate post as Additional Manager (F&A) previously some staff officiated in the post of Additional Manager (F&A) by using the post of Joint Manager created in BP.Ms.No.577, dated 13.08.1992 based on then need. The Revised Service Regulations 2010 has provided for the post of Additional Manager (F&A) among other posts. As of now there exists no posts as Additional Manager (F&A) in the sanctioned posts of the Board. However based on the representation made by certain aggrieved staff members, the Board has constituted a Committee consisting the following Members to scrutinize all the anomalies in the Revised Service Regulations 2010 and to furnish a report immediately.

1. Joint Chief Environmental Engineer (Law)
2. Manager (P&A) a/c
3. Manager (F&A)

It is respectfully submitted that all such representations including the representation

made by the petitioner will be examined separately on case to case basis and orders will be passed accordingly."

10. Therefore, it has become clear that, as per the stand taken by the respondents in respect of the plea made by the existing employees with regard to their promotional avenue, a Committee has been constituted consisting three top officials of the respondents Board and the said Committee has been directed to furnish a report immediately.

11. As per the said counter which was filed in February 2018, i.e., exactly, three years before, the Committee had been constituted and therefore, by this time, the Committee could have reported to the Board and based on the report, what has been decided is not made known and as of now, there is no instructions to that effect, according to the learned Standing counsel appearing for the respondents.

12. Be that as it may, whatever be the recommendation made by the said Committee appointed in the year 2018 as averred in the counter affidavit which has been quoted herein above, based on such recommendation, it is for the respondents Board to take a decision on the issue, as has been raised by the petitioner and similarly placed persons. Therefore, in this context, it cannot be kept pending for any more and an immediate decision definitely, has to be taken and accordingly, whatever be the decision, to be taken by the respondents Board can be communicated to the petitioner and in this regard, if he does not get the desired result, he is at liberty to workout his remedy in the manner known to law.

13. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following orders:

"That the respondents are hereby directed to consider the representation of the petitioner dated 09.06.2011 and decide the same on merits and in accordance with law, of course, on the basis of the recommendation if any made by the said Committee constituted in this regard, pursuant to the Revised Service Regulations 2010, as has been stated by the respondents in their counter affidavit and accordingly, communicate the said decision taken in respect of the petitioner and the needful shall be undertaken by the respondents within a period of eight weeks from the date of receipt of a copy of this order."

14. With these directions, this Writ Petition is disposed of. However, there shall be no order to costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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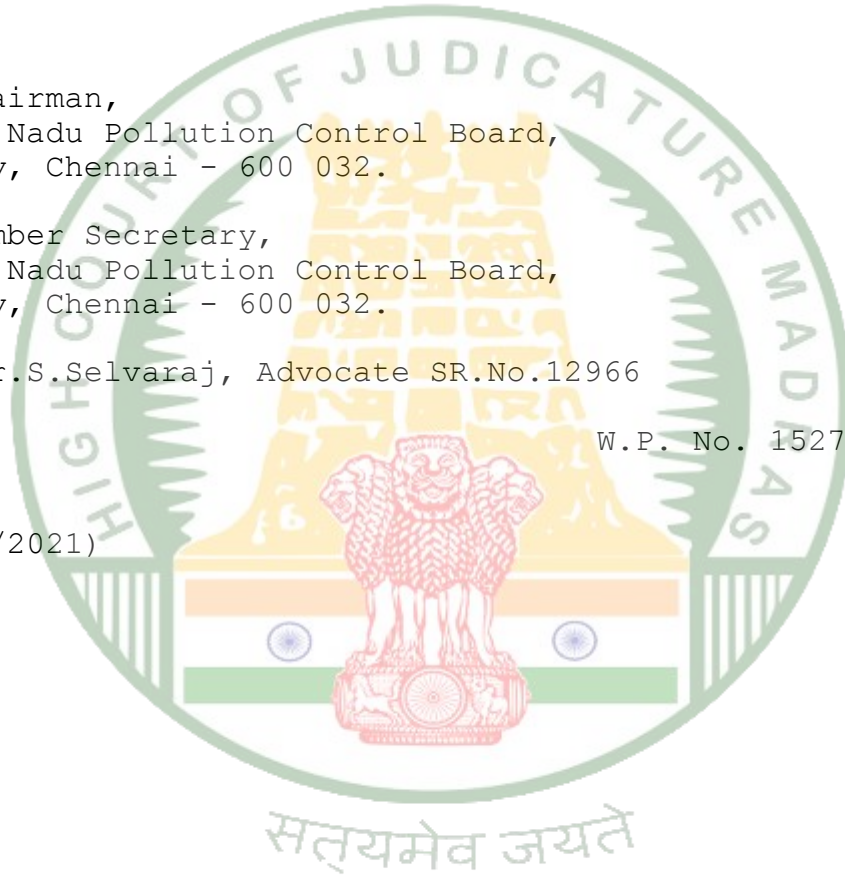
To

1. The Chairman,
Tamil Nadu Pollution Control Board,
Guindy, Chennai - 600 032.
2. The Member Secretary,
Tamil Nadu Pollution Control Board,
Guindy, Chennai - 600 032.

+1cc to Mr.S.Selvaraj, Advocate SR.No.12966

W.P. No. 15273 of 2011

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GMY(09/07/2021)



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