



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.21479 of 2008

1 R.KANDASAMY
S/O.RAMASAMY,
JUNIOR DRAFTING OFFICER,
OFFICE OF THE DIVISIONAL ENGINEER,
HIGHWAYS & RURAL WORKS DEPT.,
SALEM DIVISION SALEM- 636007. ... PETITIONER

Vs.

1 THE CHIEF ENGINEER (GENERAL)
HIGHWAYS & RURAL WORKS DEPT., CHEPAUK
CHENNAI-5.

2 S.MARIMUTHU
JUNIOR ENGINEER,
O/O. ASST. DIVISIONAL ENGINEER,
INVESTIGATION SUB-DIVISION,
HIGHWAYS DEPARTMENT, T.B.COMPOUND,
LONDONPET, KRISHNAGIRI. ... RESPONDENTS

Prayer : Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari filed mandamus calling for the records of the 1st respondent relating to the order in Pro.No.44370/Thi5(1)/2006 dated 16.06.2008 quash the same and issue consequential direction to the respondent to place the petitioner in the seniority list of Junior Draughting Officer as on 01.08.2001 above Sl.No.830 and to consider his name for promotion as Junior Engineer and promote him with retrospective effect from the date of promotion of his junior with consequential benefit.

For Petitioner : Mr.D.Baskar

For Respondent No.1 : Mr.T.Arunkumar, A.G.P.

For Respondent No.2 : No appearance



O R D E R

According to the petitioner, the petitioner was promoted as Junior Drafting Officer in Salem Division. The first respondent has prepared seniority list of Junior Drafting officer as on 1.8.2001 in February 2002. In the Seniority list the petitioner's name was placed at Sl.No.951 and his juniors S.Marimuthu and I.Irshad have been placed at Sl.Nos.830 and 831 respectively. After coming to know that his Juniors were placed much before his name i.e. at Sl.No.830 & 831 respectively, overlooking his seniority, the petitioner made representation, dated 15.4.2002 to the first respondent to revise his seniority by placing the petitioner's name above S.Marimuthu (S.No.830). In spite of said representation, the first respondent informed that by memo, dated 16.7.2007 called for options from all the Junior Drafting Officers for promotion as Junior Engineer. In the list enclosed to the said memo, the petitioner's name placed at Sl.No.90 and Marimuthu's name has been placed at Sl.No.42. Therefore, again, the petitioner made representation to the first respondent to place his name in the appropriate place in the seniority list. Pursuant to the order passed by this Court in W.P.No.7440 of 2008, dated 27.3.2008, the respondent passed the impugned order by stating that the petitioner's claim will be considered after disposal of the writ petition filed by one R.Sivaji that has been challenged in the present writ petition.

2. According to the learned counsel appearing for the petitioner, the reason as stated in the impugned order is totally unjust, illegal and discriminatory since no valid reason has been assigned in the impugned order passed by the respondent. The first respondent rejected the claim of the petitioner by simply stating that the petitioner's claim will be considered after disposal of the writ petition filed by one R.Sivaji without furnishing necessary details to the petitioner nor furnished to the petitioner any order passed by this Court and further, no opportunity was given to the petitioner. Therefore, the impugned order is liable to be quashed.

3 No counter affidavit has been filed by the respondent. As the writ petition is of the year 2008, this Court deprecated for non filing of counter affidavit for the past 13 years.

4 On perusal of the impugned order passed by the first respondent, this court has no hesitation to quash the same since as stated in the affidavit filed by the petitioner, no valid reason assigned in the impugned order nor any details with regard to writ petition alleged to have been filed by one Sivaji, furnished to the petitioner. At this distance of time, the learned counsel appearing for the petitioner urged before



this court to set aside the impugned order and remit the matter to the authority concerned to pass appropriate orders.

5 As rightly pointed out by the counsel appearing for the petitioner, the first respondent has failed to consider the claim of the petitioner in a proper manner and passed the impugned order by merely stating that the petitioner's claim will be considered after disposal of the writ petition filed by one Sivaji, the impugned order of the first respondent is deserves to be quashed.

6 In fine, the writ petition stands allowed. The impugned order passed by the first respondent, dated 16.6.2008 is quashed. The first respondent is directed to consider the petitioner's representation, dated 9.8.2006 and pass appropriate orders on merit and in accordance with law as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of this order. No cost.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

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To

THE CHIEF ENGINEER (GENERAL)
HIGHWAYS & RURAL WORKS DEPT., CHEPAUK, CHENNAI-5.

+1cc to Government Pleader SR.No.60691

W.P.No.21479 of 2008

PL(CO)
GMY(03/12/2021)