

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.17856 of 2010 and M.P.No.1 of 2010

D.Nagarajan

... Petitioner

-Vs-

1.The Director
Local Administration Department
Government of Puducherry
Union Territory of Puducherry.

2.The Commissioner
Bahour Commune Panchayat
Bahour, Union Territory of Panchayat. ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent to consider the petitioner's promotion as Junior Engineer to fill up the post that has not been vacant for about three months.

For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.G.Djearany,
Government Advocate

ORDER

The prayer sought for herein is to direct the first respondent to consider the petitioner's promotion as Junior Engineer to fill up the post that has now been vacant for about three months.

2. That the case of the petitioner is that, he was appointed as Draftsman Grade II in the second respondent Bahour Panchayat of Union Territory of Puducherry on 29.01.2002. In that circumstances, there was a post of Junior Engineer in the said Panchayat, which became vacant, and the respondents were taking steps to fill up the post. It is the case of the petitioner that, since he has already completed

Bachelor Degree in Civil Engineering he is also eligible to be considered for the said post and he has given a representation dated 28.03.2010 to the respondents to consider him for the said post and the said representation, according to the petitioner, since has not be considered, he has approached this Court by filing the present writ petition.

3. When the case is taken up today for hearing, Ms.Djearany learned Government Advocate (Puducherry), on instructions, would submit that, though the petitioner claims to have completed Bachelor Degree in Civil Engineering, it is not a matter of right for the petitioner to claim any promotion to the post of Junior Engineer. Moreover, the post of Junior Engineer has never become vacant for consideration of the candidature of the petitioner and if at all the post has become vacant, that has to be filled up as per the Service Regulations, where no priority can be given to the petitioner alone, as he is an in-service candidate.

4. Learned Government Advocate, on instructions, would further submit that, during the pendency of the writ petition, because of the non-promotion to the post of Junior Engineer, the petitioner has been given pay up-gradation in the year 2012. Therefore, the petitioner cannot have any grievance to agitate before this Court. She also submitted that, getting promoted to the post of Junior Engineer is not a matter of right and therefore she sought for dismissal of the writ petition.

5. As has been rightly pointed out by the learned Government Advocate (Puducherry) appearing for the respondents, promotion is not a matter of right. It shall be done only as per the Service Regulations.

6. Merely because the petitioner has acquired the qualification to hold promotional post, that cannot be automatically given to the petitioner. If any vacancy arises in the promotional post as per Service Regulations, all eligible candidates including the in-service candidates like the petitioner can participate in the selection. It is also to be noted that during the pendency of this writ petition, in the year 2012 the petitioner has already been considered for financial up-gradation and that has also been conferred on him. Therefore, in order to get into a functional post, the petitioner can very well wait for his turn either based on seniority if it is a promotional post, and if it is a selection post only, the selection would be made as per the Service Regulations, where if the petitioner's candidature is also to be considered, that would be considered by the respondents as per the Service Regulations.

7. Therefore, the present prayer sought for by the petitioner cannot be granted at this juncture. With the above

observations, this writ petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

- 1.The Director
Local Administration Department
Government of Puducherry
Union Territory of Puducherry.
- 2.The Commissioner
Bahour Commune Panchayat
Bahour, Union Territory of Panchayat.

+1cc to Mr.R. PRABHAKARAN, Advocate, S.R.No.7764

+1cc to the Government Pleader, S.R.No.7765

KK(CO)
SM/04/03/2021

W.P.No.17856 of 2010

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