

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7368 of 2021

B.S. Ranganathan

... Petitioner

Vs

1. The Tamil Nadu Water Supply and Drainage Board,
Rep.by its Chairman
31, Kamarajar Salai,
Chepauk,
Chennai 600 005.
2. The Managing Director
Tamil Nadu Water Supply
and Drainage Board,
31, Kamarajar Salai,
Chepauk, Chennai 600 005.
3. The Joint Chief Engineer
Tamil Nadu Water Supply
and Drainage Board, Head Office
31, Kamarajar Salai,
Chepauk, Chennai 600 005.
4. The Secretary to Government
Municipal Administration and
Water Supply Department,
St.George Fort, Rajaji Salai,
Chennai 600 009.

.... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus directing the 1st respondent to dispose of petitioner's representation dated 12.06.2020 and to direct to pass orders promoting the petitioner from 17.05.1993 and Chief Engineer i.e., from the date on which his junior Thiru.V.K.Devadasan, in the post of Executive Engineer, was promoted to these two higher posts duly permitting to draw arrears of duty pay and allowances on par with his junior retrospectively, on merits and in accordance with law in force within the time frame as may be fixed by this Court.

For Petitioner : Mrs.G.P.Arivuchudar
For Respondent : Mr.P.V.Selvakumar
Additional Government Pleader

O R D E R

This writ petition has been filed, seeking a direction to the 1st respondent to dispose of petitioner's representation dated 12.06.2020 and to direct to pass orders promoting the petitioner from 17.05.1993 and Chief Engineer i.e., from the date on which his junior Thiru.V.K.Devadasan, in the post of Executive Engineer, was promoted to these two higher posts duly permitting to draw arrears of duty pay and allowances on par with his junior retrospectively, on merits and in accordance with law.

2. Mr.P.V.Selvakumar, learned Additional Government Advocate takes notice for respondents. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. The case of the petitioner is that the petitioner was appointed as Assistant Engineer in the year 1965 in Public Health Engineer Department then he was promoted as Assistant Executive Engineer. Consequent on the formation on Tamil Nadu Water Supply Drainage Board on 14.04.1971 on TWAD Board Act, 1970 his services were absorbed in TWAD Board where he was promoted as Executive Engineer during 1980. He was working as Executive Engineer, Hill Area Development Project Division, TWAD Board, Uthagamandalam from 01.06.1985 to 25.06.1987. Then he was transferred to Coimbatore where he was placed under suspension to contemplate charges against him under departmental disciplinary proceedings as per Regulation 10(a)(1) of TWAD Board employees (Discipline and Appeal) Regulation 1972.

4. Further he was framed various imaginary charges alleging that he has done some irregularities during the execution of Uthagamandalam Water Supply improvements schemes. After he was reinstated into service as per the orders of the Madras High Court, he rejoined duty on 17.08.1992. While he was in service during the period from 17.08.1992 to 03.08.1994 he was again issued one charge memo by the second respondent and the charges were withdrawn. Thereafter the petitioner was again placed under suspension invoking the provisions of Regulation 10(a)(ii) of the TWAD Board Employees (Discipline and Appeal) Regulations, 1972 by the second respondent and later by the order of this Court he was permitted to retire on 30.11.1999 AN on attaining the age of superannuation.

5. All the departmental charges framed under regulation 9(b) of the TWAD Board (Discipline and Appeal) Regulation, 1972 were dropped and cancelled by the Management and quashed by this Court. Further the petitioner was also acquitted from the criminal charges. Hence there was no penalty or charges pending against him on the date of his retirement on attending the age of superannuation i.e., on 30.11.1999 A.N. During the period of his tenure from 17.05.1993 to 30.11.1999 more than 39 Executive Engineer who were juniors to the petitioner were got promoted as Superintendent Engineer and Chief Engineer. According to TWAD Board Service regulation 1972 and Administrative Law his name should have been considered for further promotion of Superintending Engineer and Chief Engineer duly fixing his appropriate seniority in the post of Superintendent Engineer and Chief Engineer and submitted a representation dated 2.06.2020 requesting to promote him as Superintendent Engineer from 17.05.1993 and Chief Engineer from the date on which his Junior Thiru.V.K.Devadasan, Executive Engineer was promoted to these higher post duly fixing his pay in the relevant scale of pay thereon and sanctioning revised pension and other terminal benefits and permitting to draw arrears retrospectively. Since the respondents have not taken any action, the petitioner has come forward with the present writ petition.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 1st respondent and if the representation is not already disposed of earlier, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondent herein to consider the representation preferred by the petitioner dated 12.06.2020, if the petitioner is found to be eligible and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 120 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 12.06.2020 and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

dpq

To:

1. The Chairman
Tamil Nadu Water Supply and Drainage Board,
31, Kamarajar Salai,
Chepauk, Chennai 600 005.
2. The Managing Director
Tamil Nadu Water Supply
and Drainage Board,
31, Kamarajar Salai, Chepauk, Chennai 600 005.
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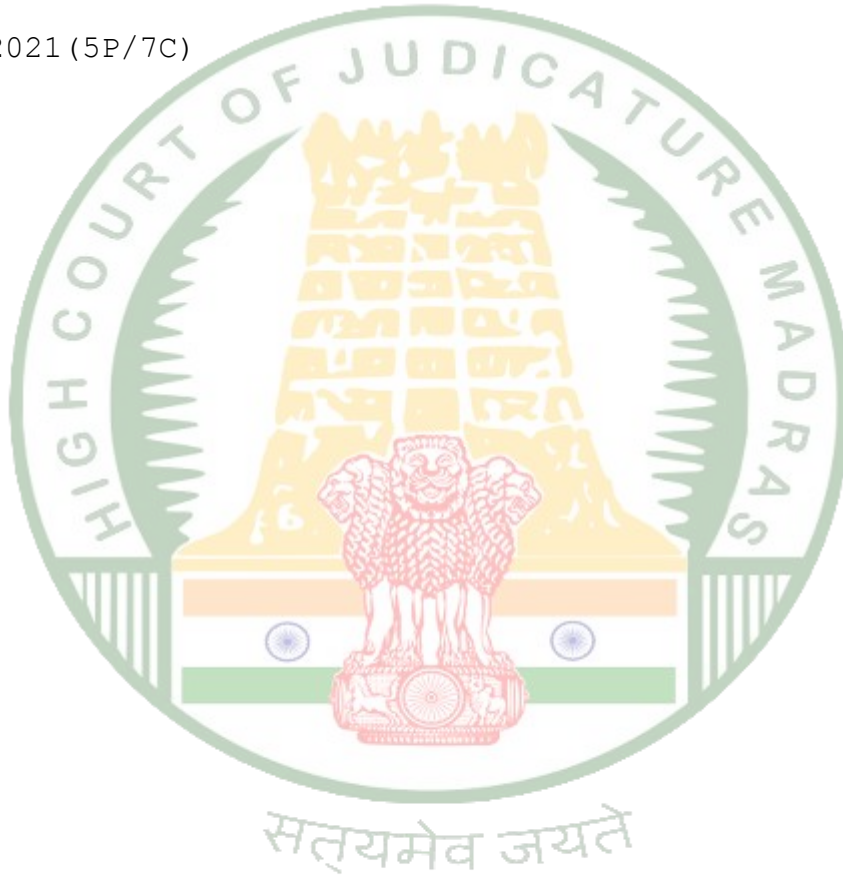
+1 cc to Mrs.G.P.Arivuchudar, Advocate Sr No.18475

+1 cc to Government Pleader, Sr No.18612

W.P.No.7368 of 2021

GPL (CO)

RG.21.04.2021 (5P/7C)



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