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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.6965 of 2013

C.Xavier Thaninayagam,

... Petitioner

-Vs-

1. Government of Tamil Nadu,
Rep by its Industrial Secretary to Government,
MIC - II, Department of Industries,
Fort St.Geroge,
Chennai.
2. The Director of Sugar,
690, Anna Salai,
EVR Periyar Building,
II Floor, Nandanam,
Chennai - 600 035.
3. Administrator,
Chengalrayan Co- operative Sugar Mills Limited,
Periyasevalai - 607 209,
Villupuram District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to order dated 30.11.2012 passed by the 2nd respondent made in Rc.No. 15266/A&I/2012-II and quash the same and consequently direct the respondents to give notional promotion to the petitioner with consequent benefits.

For Petitioner : Mr.N.Naganathan

For R1 & R2 : Mr.S.Prabakaran
Government Advocate

For R3 : Ms.Shahana Fathima
for Mr.R.Gopinath



ORDER

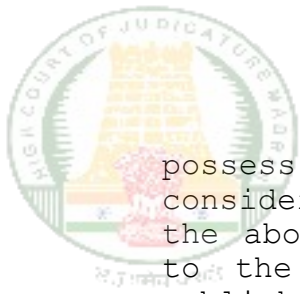
This Writ petition has been filed to call for the records relating to order dated 30.11.2012 passed by the 2nd respondent made in Rc.No. 15266/A&I/2012-II and quash the same and consequently direct the respondents to give notional promotion to the petitioner with consequent benefits.

2.The Writ petitioner joined the services of the 3rd respondent as an Assistant Engineer (Mechanical) on 12.02.1987. On completing his probation period, he was transferred to Thiruthani Co-operative Sugar Mills Limited vide order of the 2nd respondent and worked there till July 1999. Thereafter, the petitioner joined the 3rd respondent mill as an Assistant Engineer (Mechanical) and worked in the same post for more than 25 years.

3.According to the petitioner, He was eligible to be promoted to the post of Deputy Chief Engineer as early as 1994 and he was eligible for the post of Chief Engineer as early as 1999 itself. Though he was eligible, he was not given any promotion and he made several representations to the respondent and he had also filed a petition in W.P.No.19762 of 2012 before this Court for directing the respondents to give notional promotion with consequential benefits and this Court had issued a direction to the 2nd and 3rd respondents to consider the representation dated 12.07.2012 which was rejected by the 2nd respondent. The petitioner has therefore filed this writ petition challenging the order of the 2nd respondent made in Rc.No. 15266/A&I/2012-II and in the meantime, the petitioner has also retired from the service on 31.08.2012.

4.Counter has been filed on behalf of the 1st and 2nd respondents.

5.It has been stated in the counter that as per G.O.Ms.No.68 Industries (MIC2) dated 01.03.2011 the post of Deputy Chief Engineer is a promotional post from the post of Assistant Engineer. Hence the provisional seniority list of Assistant Engineer as on 01.02.2011 was prepared and it was published on 14.09.2012 by the respondent and the same has been communicated to all the Cooperative Sugar Mills and Public Sector Sugar Mills Ltd., with a request to send their objections for necessary action. Subsequently, many objections were raised by the Assistant Engineers (Mechanical) who are in the seniority list and confirmed the seniority list of Assistant Engineer (Mechanical) was issued vide Director of Sugar Proceedings No.1930/A&I/11 dated 24.12.2012. After publication of the confirmed seniority list, some of the Assistant Engineers in Cooperative Sugar Mills and Public Sector Sugar Mills who



possess B.E. Qualification and Diploma holders had requested to consider their training period also for seniority purpose. In the above circumstances, the final seniority list for promotion to the post of Deputy Chief Engineer as on 01.12.2011 was published on 27.12.2012 after a detailed verification and examination of the above issues and promotions were made vide R.No.17900/A&I/12-III dated 23.01.2013 and in the meantime the petitioner Thiru C.Xavier Thanninayagam, Assistant Engineer got retired from the services of the mill on 31.08.2012 and due to administrative reasons, the request of the petitioner to promote him as a Deputy Chief Engineer could not be complied with by the 2nd respondent and the relief sought for in this writ petition by the petitioner has become infructuous.

6.Heard the learned counsel on either side. Perused the materials placed on record.

7.According to the petitioner, his Serial Number is 39 in the seniority list and his Juniors G.Krishnan (Serial No.47) and one A.Muthiah (Senior No.51) in the year 1993 were promoted to the post of Deputy Chief Engineer in the year 2001 but the petitioner was not considered for the said promotion, thereby, the petitioner made several representations which was not considered by the respondent and thereafter the petitioner got retired from the services on 31.08.2012.

8.Learned Government Advocate appearing for the respondent submitted that the revised provisional seniority list was published on 14.09.2012 and after receiving the objections from the concerned persons they have finalised the seniority list and at the same time, the petitioner got retired from the services on 31.08.2012, thereby the respondent could not consider the petitioner for promotion as per the seniority list published on 24.12.2012 and hence notional promotion could not be granted to the petitioner as per the seniority list of the year 1993 and Mr. G.Krishnan (Serial No.47) and one A.Muthiah (Senior No.51) in the year 1993 were promoted to the post of Deputy Chief Engineer in the year 2001 overlooking the petitioner and during the relevant period of time, the petitioner has not challenged the said promotion list, therefore, the said G.Krishnan and A.Muthiah were promoted and the petitioner made a representation only in the year 2001 challenging the seniority list prepared by the respondents. Therefore, the petitioner cannot seek for the relief that two of his juniors were promoted as they have been promoted in the year 2001.

9.Further, the aforesaid contention was only made before the Court and there is no specific allegations or averment made in the affidavit filed by the petitioner. Therefore, the contention of the petitioner that by overlooking him and promoting his



juniors in the year 2001 is not a substantial contention of the petitioner and this Court cannot grant or consider the relief as there is no merits in his case and inclined to dismiss this petition.

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10. This writ petition stands dismissed accordingly. No costs.

Sd/-

Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

kas/dk

To.

1. The Industrial Secretary to Government,
Government of Tamil Nadu,
MIC - II, Department of Industries,
Fort St. George,
Chennai.
2. The Director of Sugar,
690, Anna Salai,
EVR Periyar Building,
II Floor, Nandanam,
Chennai - 600 035.

+1cc to Mr. R. Gopinath, Advocate, S.R.No.66443
+1cc to Mr. N. Naganathan, Advocate, S.R.No.66530
+1cc to the Government Pleader, S.R.No.67068

W.P.No.6965 of 2013

SSI (CO)
CT 30/12/2021