

**W.M.P.No.12494 of 2021
in
W.M.P.No.11320 of 2021
in
W.P.No.10685 of 2021**

R.SURESH KUMAR, J.

That the Writ Petitioner has challenged the impugned proceedings issued by the First Respondent dated 22.01.2021 wherein by relaxing the relevant seniority rank, promotion had come to the private Respondents as Assistant Engineers. Challenging the said order, the Writ Petition was filed on the ground that if at all Government has got power to relax the educational and other qualifications for any appointment or promotion, once a method of recruitment for giving promotion is given, such method cannot be dispensed with or relaxed and that kind of power is not vested with the Government.

2.At the time of admitting the Writ Petition, a Learned Judge of this Court granted an interim order of stay of impugned proceedings dated 22.01.2021. Challenging the said order of interim stay, this Miscellaneous Petition has been filed.

3.Heard the Learned Counsel appearing for the Petitioner who would submit that, if at all a relaxation is given by the Government through the issuance of G.O.Ms.No.457, Municipal Administration and Water Supply Department dated 28.12.2020, such relaxation shall not be made against the very recruitment or the promotion method itself, for promoting individuals to the post of Assistant Engineers.

4.However, Learned Senior Counsel appearing for the Private Respondents, who filed the Vacate Stay Petition would submit that, though the Government is vested with the power to relax any such condition for seniority, it cannot be stated that, such power is a restricted power or certain conditions alone can be relaxed and other conditions cannot be relaxed. Moreover, this issue can be very well agitated in the main Writ Petition. Therefore, the impugned order need not be disturbed at this stage. It seems that, if the private respondents are promoted and if they are permitted to work in the promoted position, they will not be conferred any right to get promotion in the said post by acceding the plea raised by the Private Respondents.

5.I have considered the submissions made by the Learned Counsel appearing for both sides and perused the materials placed on record.

6.As has been rightly pointed by the Learned Senior Counsel who filed vacate stay petition, the Government by exercising its powers, has given some relaxation and pursuant to the relaxation, promotion has been given to private respondents, pursuant to which, they have been promoted as Assistant Engineers and if there is any infirmity in such relaxation, it is purely a legal question and that issue can be agitated in the Writ Petition hence the impugned order need not be disturbed at this juncture.

7.Moreover, as the learned Senior Counsel pointed out, if ultimately the Petitioner is able to succeed on merits, automatically promotion of private respondents would be reviewed and they may be reverted back to their original posts. Otherwise, if ultimately petitioner lost the Writ Petition and private respondents succeed, during the period where the Writ Petition is pending, if they are not permitted to work in

the said position, they may not work in the promoted post, however they may seek salary in the promoted post without rendering any work.

8.In that view of the matter, this Court feels that the interim order granted by this Court can be vacated, of course with the observation that, if ultimately the Petitioner succeeds in the Writ Petition, the private respondents cannot seek any equity or claim any seniority in the promoted position and ultimately promotion given in the impugned order can very well be reviewed by the employer and consequentially needful can be done by the employer therein.

9.Accordingly, the interim order granted by this Court in W.M.P.No.11320 of 2021 is vacated and W.M.P.No.12494 of 2021 is allowed and W.M.P.No.11320 of 2021 is dismissed. Post the main Writ Petition on 14.06.2021.

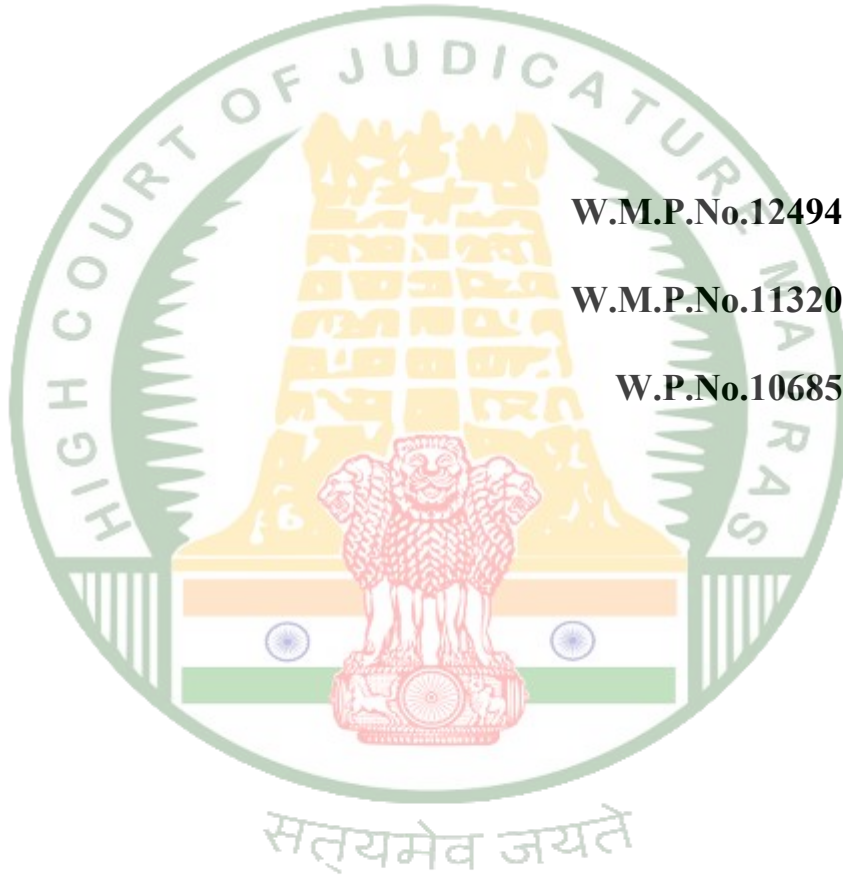
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