

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.15588 of 2014

R.Gunasekaran

... Petitioner

Vs

1. The Managing Director,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 2.

2. The General Manager,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 2.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to re-fix the petitioner's pay scale on par with the petitioner juniors pay scale and disburse the difference amount to the petitioner as arrears within stipulated time.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.N.Ramesh

सत्यमेव जयते
O R D E R

This writ petition has been filed for a direction to the respondents to re-fix the petitioner's pay scale on par with his juniors' pay scale and disburse the difference amount to him along with arrears within a stipulated time.

2.The case of the petitioner is that he was appointed as Draftsman-cum-Surveyor in the respondent Board on 01.12.1983 and was subsequently, promoted as Junior Engineer in the year 1994 and he retired from service on 31.05.2014. It is the grievance of the petitioner that his juniors are getting more pay than him, even after several requests made to revise the pay scale on par with his juniors with effect from his promotion as Junior Engineer. In this regard, the petitioner made a representation

dated 02.08.2013 to the second respondent, to which, by proceedings dated 05.12.2013, it was informed that the revision of seniority was a general issue and the seniority of all the staff Technical and non-Technical were revised; pay anomaly is not applicable for such seniority revision, though there may be discrepancy; this has been clearly informed in the proceeding dated 29.01.2001; and hence, the said request is not feasible for consideration. Feeling aggrieved, the petitioner is before this Court with this writ petition for the aforesaid prayer.

3. Upon notice, the respondents filed a detailed counter affidavit, wherein it is inter alia stated that prior to 1994, promotions were ordered according to the list based on joining dates in the feeder post; as per Regulation 21(a) of CMWSS Board Employees (General) Service Regulations, 1978, the seniority of all categories in the Board was fixed only from the year 1994; and due to this change over from one method to another, certain re-alignment of the seniority position was inevitable and consequently, few individuals who got promotion earlier became juniors and other few who got promotion later became seniors; however, the promotions already ordered prior to the fixation of seniority as per the regulations were not reversed in order to protect those who were already promoted to the post of Junior Engineer. It is also stated therein that the request of the petitioner was examined and he was replied that the same cannot be complied with, since that benefits occurs only on the fixation of seniority and not due to the revision of original seniority; and this issue was already settled in 2001 itself and the present seniority list of Junior Engineer (Civil) published is only an updated seniority list of Junior Engineer (Civil) from already published in 2001. With these averments, the respondents sought to dismiss this writ petition.

4. Heard both sides and perused the records.

5. It is seen that the request of the petitioner made in his representation dated 02.08.2013 was negatived by the second respondent by communication dated 05.12.2013, stating that the same was not feasible for consideration. In such circumstances, no mandamus can be issued to the respondents in favour of the petitioner.

6. In such view of the matter, this writ petition stands disposed of, leaving it open to the petitioner to seek appropriate remedy in the manner known to law. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

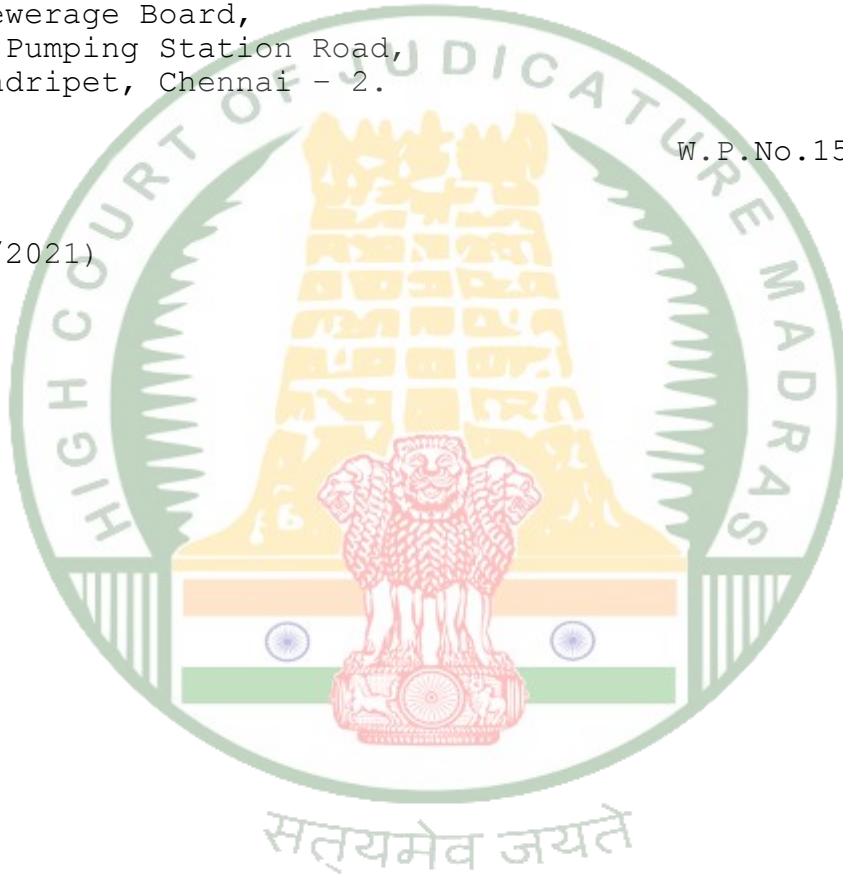
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To

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and Sewerage Board,
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