

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.18080 of 2014

M.D.Vijayakumar

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
TWAD House, Chepauk, Chennai - 5.

2. The Executive Engineer,
TWAD Board, Maintenance Division,
Thiruvannamalai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to promote/upgrade the petitioner from the post of Electrician Grade - I to Electrical Superintendent w.e.f. 1.11.1992, based on the proceedings of the Assistant Executive Engineer, T.W.A.D. Board, Urban Sub Division, Vellore vide Proc. No.F28/92/AEE/U/VLR, dated 30.10.1992 and on the basis of the representation of the petitioner dated 19.01.2011 recommended by the second respondent vide Lr.No.1713/F.Elec.Suptd.EA/2012 dated 16.11.2012 in the light of the order in W.P.No.2035/1989 dated 25.03.1998.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.S.Eraskincheo

ORDER

Heard both sides and perused the materials brought on record.

2.The case projected in the writ petition is as follows:

2.1 The petitioner was appointed as Electrician Grade II on 04.04.1978 in the first respondent Department through employment exchange. After 4 ½ years of service, he was promoted to the post of Electrician Grade I on 01.10.84 and after completion of 10 years of service, he was sanctioned with selection grade with

effect from 01.10.1994 and upon completion of another 10 years of service, he was sanctioned with special grade. Ultimately, he was superannuated on 31.05.2013 as Electrician Grade I, without any promotion.

2.2 According to the petitioner, in the year 1972, the Public Works Department was bifurcated into PWD and the Tamil Nadu Water and Drainage Board (TWAD); and there is no promotional avenue in the respondent TWAD Board, whereas promotional avenue is provided for PWD.

2.3 While he was in service, due to Administrative exigencies and on account of absence of qualified persons, the petitioner was sanctioned the work of Electrical Superintendent from 14.07.1994 to till the date of superannuation. Though he was formally promoted to the post of Electrical Superintendent and discharged the functions and duties as such and also possessed necessary qualification, the respondent Board did not consider him to the said post for the reason that the post of Electrical Superintendent was to be filled up only through direct recruitment. Further, the petitioner was paid only the pay scale of Electrical Grade I, which is in violation of principle of Equal pay for equal work.

2.4 In an identical case in W.P.No.2035 of 1989, this Court passed an order on 25.03.1998, the operative portion of which reads as follows:

"14. In the result, the writ petition is allowed with the following directions to the respondent board:

1. The respondent herein is directed to promote all these writ petitioners to the post of 'Electrical Supervisor' with effect from 1-9-1981;

2. The difference of pay scales and all other attendant benefits accrued thereon on such promotion, from the said date upto this date shall be calculated and be paid to the petitioners herein in cash or by way of DD together with 12% p.a. interest from the date of promotion till the date of payment.

3. The entire arrears of salary and all other eligible monetary benefits as calculated above shall be paid to the petitioners herein within 60 days from the date of receipt of copy of this order.

4. In case, if the said post 'Electrical Supervisor' is not in existence at present, the respondent is directed to create such four supernumerary posts protecting their salary and status and promote them in the said posts.

5. In case, if there is no sufficient funds to meet the payment of arrears to the petitioners herein

as ordered above by this Court, the respondent is hereby directed to draw the same from the emergency funds of the next budget allotment and pay the petitioners herein.

6.It is further clarified that there is no question of extension of time for payment."

2.5 Based on the aforesaid order, the petitioner made several representations and lastly on 19.01.2011, which was recommended by the second respondent by letter no.1713/F.Ele.Supdt.E.A/2012 dated 16.11.2012, to the first respondent. However, till date, no order was passed on the said representation.

2.6 Therefore, the petitioner has filed this writ petition seeking a mandamus, to consider his representation dated 19.01.2011 and to direct the first respondent to promote/upgrade him from the post of Electrician Grade - I to Electrical Superintendent with effect from 01.11.1992, based on the proceedings of the Assistant Executive Engineer, T.W.A.D. Board, Urban, Sub Division, Vellore vide Proc. No.F28/92/AEE/U/VLR, dated 30.10.1992 and the recommendation of the second respondent vide his Lr.No.1713/F.Elec.Supdt.EA/2012 dated 16.11.2012 and also in the light of the order of this Court in W.P.No.2035/1989 dated 25.03.1998.

3.Considering the limited relief sought herein, this Court, without going into the merits of the case, directs the first respondent to consider the representation of the petitioner dated 19.01.2011, if not already considered and pass appropriate orders, on merits and in accordance with law and also in the light of the recommendation of the second respondent dated 16.11.2012 and the aforesaid order of this Court. Such an exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

4.With the aforesaid direction, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vrc

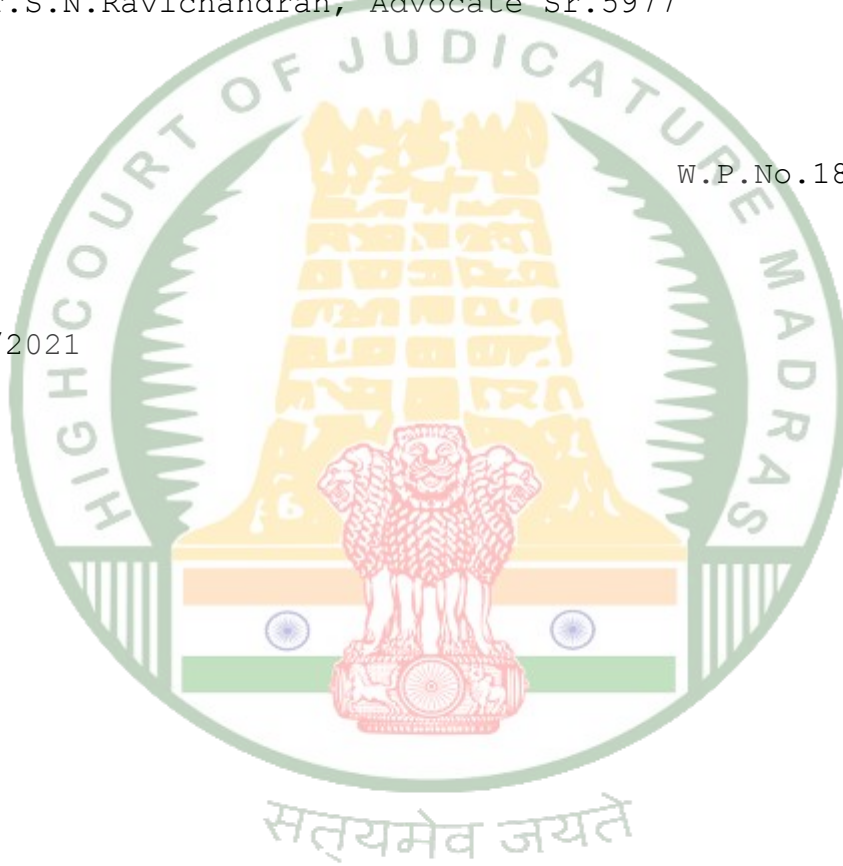
To

1. The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
TWAD House, Chepauk, Chennai - 5.
2. The Executive Engineer,
TWAD Board, Maintenance Division,
Thiruvannamalai.

+1cc to Mr.S.N.Ravichandran, Advocate Sr.5977

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