

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
W.P.No.18823 of 2014

M.Lakshmanan

... Petitioner

Vs.

1. The Secretary to Government,
Public Works Department,
Secretariat, Chennai - 600 009.
2. The Engineer in Chief (General)
Building and Maintenance,
Chennai Zone, Public Works Department,
Chepauk, Chennai - 600 005.
3. The Superintending Engineer,
Public Works Department, Palar Bazin Circle,
Chepauk, Chennai - 600 005.
4. The Executive Engineer,
Public Works Department,
Water Resources Organization,
Kosasthali River Division,
Thiruvallur.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 02.04.2014 for giving retrospective and monetary benefits from the date of completion of 10 years.

For Petitioner : Mr.R.K.Kalpana

For Respondents : Mr.K.K.Ramesh
Government Advocate

ORDER

This writ petition has been filed to direct the respondents to consider the representation of the petitioner dated 02.04.2014 seeking monetary benefits with retrospective effect from the date of his completion of 10 years.

2. According to the petitioner, he was engaged as a Labour in the category of Mazdoor on daily wage basis on 01.02.1990 and his service was regularized as per G.O.Ms.No.334, Public Works (C2) Department dated 19.10.2007. But the respondents have not paid the monetary benefits with retrospective effect as per the said Government Order. In this regard, the petitioner sent a representation dated 02.04.2014 to the respondents and the same has not been considered till date. Hence, the present writ petition.

3. Upon notice, the respondents have filed a detailed counter affidavit inter alia stating that considering the plight of the NMR labourers and their period of engagement, the Government has taken a stand to bring them into regular establishment on adhoc basis by creating posts for accommodating the NMR labourers who were engaged for 10 years and more and passed G.O.Ms.No.334, Public Works Department dated 19.10.2007; and hence, the petitioner cannot stretch beyond the scope and ambit of the scheme formulated in the said Government order for bringing him and others as a matter of right. It is further stated therein that the petitioner was not continuously engaged for want of work from 01.09.1990 to 26.01.1992, however, the Government has regularized his service by relaxing certain rules such as age, education etc; and the petitioner's main intention is that he has to be posted as Assistant Draughtsman instead of Work Inspector. It is also stated that the request of the petitioner by changing his designation to the post of Assistant Draughtsman Gr.II from Work Inspector Gr.III, could not be complied with, as there is no post available in PWD with the nomenclature of Assistant Draughtsman Grade II, either before or after; and the post of Assistant Draughtsman has to be filled up through employment exchange only, as per the service rules for Tamil Nadu Engineering Subordinate Service. With these submissions, the respondents sought to dismiss this writ petition.

4. The learned counsel for the petitioner seriously opposed the averments made in the counter affidavit filed by the respondents. According to him, the petitioner submitted the representation only to seek monetary benefits with retrospective effect as per G.O.Ms.No.334, dated 19.10.2007, however, without considering the same in a proper perspective, the respondents have filed the counter affidavit as if the petitioner claimed change of appointment, which cannot be accepted.

5. Taking note of the rival submissions, this Court, without going into the merits of the case, directs the respondents to consider the petitioner's representation 02.04.2014 if not already considered, and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vrc
To

1. The Secretary to Government,
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A.SK(31.03.2021)