



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.29352 of 2010

T.P.Ganapathy

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Public Works Department,
Fort St.George,
Chennai - 9.

2. The Engineer-in Chief and
Chief Engineer (General),
Water Resources Organisation,
Public Works Department,
Chepauk,
Chennai - 600 005.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the file of the second respondent in Letter No.S4(2)/25100/2009 dated 25.11.2009 quash the same and consequently direct the respondents to give the notional promotion in the post of Special Grade Senior Draughting Officer on par with petitioner's juniors namely Rathinagiri from the date on which he was promoted in the post of Special Grade Senior Draughting Officer and pay other monetary and service benefits.

For Petitioner : Mr.K.Sannjay

For Respondents : Mr.Alagu Gowtham
Government Advocate

O R D E R

This writ petition is filed to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent in respect of the impugned order dated 25.11.2009, whereby the representation of the petitioner to grant promotion on par with his junior viz, Rathinagiri was



rejected and consequently to direct the respondents to grant him promotion from the date of grant of promotion of his junior.

2. The case of the petitioner is that the petitioner was promoted to the post of Junior Draughting Officer with effect from 21.12.1977, whereas the said S.Rathinagiri joined the said post as direct recruit, much after the petitioner that as on 09.01.1978. Therefore, there is no way that the said S.Rathinagiri could be treated as senior to that of the petitioner and therefore since the said S.Rathinagiri has been promoted overlooking the petitioner, from the date of promotion of the said S.Rathinagiri, the petitioner is liable to be promoted. In this regard, the learned counsel for the petitioner had also relied upon the order passed by this Court on W.P.No.27434 of 2008, whereby in respect of the same seniority list, in the writ petition filed by one R.Singaravelu, the seniority was re-fixed over and above the private respondents therein i.e. B.Muthu and Sundarraaj, by taking into account the very same contention that the direct recruits came to be in service much after the promotion. Therefore, the said Judgment applies to this case in all force and prays for allowing the writ petition.

3. The respondents resisted this writ petition by filing a detailed counter affidavit in which the reason for keeping the said S.Rathinagiri by considering unitwise has been mentioned in Paragraph 5 of the counter affidavit and the learned Government Advocate appearing for the respondents opposed the contention of the petitioner that the petitioner himself has produced the seniority list which was published as on 31.03.2006 which was issued pursuant to the Judgment of the Tamil Nadu Administrative Tribunal. The petitioner did not challenge the said seniority list. In the said seniority list, the name of the said S.Rathinagiri is at seniority number 67. Whereas, the name of the petitioner is at the seniority number 153. Therefore, the said S.Rathinagiri cannot now be projected as junior to the petitioner. If at all the petitioner was aggrieved with respect to the placing of direct recruits above him, he should have challenged the seniority list within the time prescribed. However, he accepted the seniority list and till his superannuation he did not challenge the same and after his superannuation made a representation, which was rejected by the impugned order and it is only the order rejecting the representation alone is impugned in the writ petition.

4. I have considered the rival submissions made on behalf of both sides and perused the material records of this case.

5. As rightly contented by the learned Government Advocate, admittedly there is a seniority list published in



respect of the post in question as on 31.03.2006, in which the said S.Rathinagiri is shown as senior. That being so, without challenging the said seniority list by way of a certiorari or without a prayer for re-fixing the seniority as contained in the earlier writ petition in W.P.No.27434 of 2008 by adding such all those persons who will be pushed down in the seniority list as respondents, mere challenge to the rejection order of representation alone would not serve the purpose. The contention of the petitioner is that he should be granted promotion ahead of junior. However, as on date the said S.Rathinagiri is not his junior, because, his name finds place up above the petitioner in the seniority list and therefore the prayer as such made in the writ petition is un-sustainable and at this belated point of time no ground is made out to up-set the seniority list in the absence of challenge and in the absence of impleadment of persons who are likely to be affected on such alteration of seniority.

6. Therefore, this writ petition is without any merits and liable to be dismissed. Accordingly, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai - 9.

2. The Engineer-in Chief and
Chief Engineer (General),
Water Resources Organisation,
Public Works Department,
Chepauk, Chennai - 600 005.

+1cc to Mr.K.Sannjay, Advocate SR.No.26596

+1cc to Government Pleader SR.No.26354

W.P.No.29352 of 2010

SVI (CO)

GMV (29/04/2022)