



W.P.No.7572 of 2010

m.IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.7572 of 2010

G.Ranganathan

... Petitioner

Vs.

1. State of Tamil Nadu,
rep. by its Secretary to Government,
Environment & Forests Department,
Secretariat, Chennai-9.
2. State of Tamil Nadu,
rep. by its Secretary to Government,
Industries Department,
Secretariat, Chennai-9.
3. Member Secretary,
Tamil Nadu Pollution Control Board,
Guindy, Chennai 600 032.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus to call for the records, pertaining to the order passed by the third respondent in his proceedings No.TNPCB/Law/LAI/36704/00 dated 04.07.2007 and



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quash the same and direct the respondents to regularize the services of the petitioner in the cadre of Superintendent or in equivalent cadre with effect from 11.01.1989 in the third respondent Board in the scale of pay of Rs.905/- and confer all the consequential benefits.

For petitioner	: Mr.P.Ganeson for Mr.Shivalingam for C.S.Associates
For Respondents	: Mr.T.Arun Kumar, Addl.Govt.Pleader (forest) for R1 Mr.P.Anandakumar, Govt.Advocate for R2 Mrs.Vijayakumari Natarajn for R3

ORDER

This writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus to quash the proceedings of the third respondent in TNPCB/Law/LAI/36704/00 dated 04.07.2007 and direct the respondents to regularize the services of the petitioner in the cadre of Superintendent or in equivalent cadre with effect from 11.01.1989 in the third respondent Board in the scale of pay of Rs.905/- and confer all the consequential benefits.



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2. The case of the petitioner in brief is as follows:-

The petitioner had joined as Junior Assistant in the erstwhile Tamil Nadu Ceramics Limited, a government of Tamil nadu undertaking on 26.03.1981. Later, it was closed due to loss incurred in various units. The employees were given option either to go on voluntary retirement scheme or to get employment offered by the Tamil Nadu Pollution Control Board and the petitioner had opted for employment. While he was relieved from the Tamil Nadu Ceramics limited on 10.01.1989, he was working as Sales Officer in the scale of pay of Rs.905/-. Then, he joined in the Tamil Nadu Pollution Control Board on 11.01.1989 as Junior Assistant in the scale of pay of Rs.610/-. Thereafter, considering the representations from various employees, the Government had issued orders on 16.08.1990, directing the Board to give appointment in the same category, while they were relieved from the Tamil Nadu Ceramics Limited.

2.1. One K.E.Mohanan, junior to the petitioner, who was working in the Tamil Nadu Ceramic Limited as Assistant also joined in the Tamil Nadu Pollution Control Board on 03.04.1989 as Junior



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Assistant, whereas, the petitioner joined on 11.01.1989. The post of Junior Assistant was re-designated as Assistant and the post of Assistant was re-designated as General Assistant in the third respondent Board. According to the petitioner, as per the government letter, he is entitled to the post of Superintendent, because, at the time of relieving from Tamil Nadu Ceramics Limited, he held the post of Sale Officer in the scale of pay of Rs.905/-, which post is not available in the third respondent Board and the available post in the same scale of pay Rs.905/- is only Superintendent. The third respondent Board has re-designated the post of Assistant as General Assistant in the case of E.Mohanan, based on the Government Order. But in the case of the petitioner, the benefit has not been extended to him and he was given only the post of Junior Assistant, and not Superintendent.

2.2. The petitioner made representation to the third respondent to give the same benefit from the date of joining in Tamil Nadu Pollution Control Board, but there was no response. Hence, he filed W.P.17386 of 1995, and this court vide order dated 06.01.1999, gave direction to consider his application. However, since there was an observation that



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the petitioner cannot make an issue of solitary case of Mohanan, he filed an appeal in W.A.No.2920 of 2003 and the Division Bench of this Court, vide order dated 08.01.2007, has directed the Board to regularise his service, as in the case of one K.E.Mohanan. However, the Board rejected the claim of the petitioner vide order dated 04.07.2007, stating that the petitioner was regularised from the date of joining in the Board on 11.01.1989, which was earlier than that of E.Mohanan, General Assistant on 03.04.1989. The above order has been passed without any application of mind, because, the Government has regularized the appointment of the petitioner along with others in G.O.Ms.No.333, dated 12.10.1995 in the cadre of erstwhile Junior Assistant. That is the reason why the Division Bench directed to regularize as in the case of K.E.Mohanan. The petitioner was already regularised in the cadre of Assistant on 11.1.1989, which was previously Junior Assistant. As per the Government Order, the petitioner is entitled to the post of Superintendent. Despite the order of the Division Bench and several requests by the petitioner, it has not been considered. Hence this writ petition.



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3. The contentions of the respondent in the counter affidavit

in brief:

The Board considered the appointments of certain persons of Ex. TACEL for the entry level post i.e. Junior Assistant (re-designated as Assistant) purely on humanitarian and rehabilitation grounds. The petitioner himself agreed and applied for the post of Junior Assistant and accepted the same. Hence, he is estopped from going back on that view. Therefore, there is no question of different treatment given to him. The Board's order dated 04.07.2007 is in compliance of the orders of this court in W.A.No.2920 of 2003 dated 08.01.2007. The petitioner's claim for retrospective regularization in the cadre of Superintendent (Assistant Manager) would not only lead to further hardship to the administration, but also would go contrary to the concept of the Board and the persons, who are regularly appointed will be affected.

3.1. The nomenclature and the scale of pay in Tamil Nadu Pollution Control Board as per the TNPCB Service Regulations and the Government Service is as follows:



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Sl. No.	In Government service	Name of the Posts in TNPCB	Government Scale of pay	At the time of appointment in TNPCB
1	Junior Assistant	Assistant (Jr. Assistant)	975-25-1150-1660	975-25-1150-1660
2	Assistant	General Asst.	1200-30-1560-40-2040	1200-30-1560 - 40-2040
3	Superintendent	Asst. Manager	1400-40-1600-50-2300-60-2600	1400-40-1600-50-2300-60-2600

The statement of petitioner Thiru G.Renganathan and Thiru K.E.Mohanan from the regularized period to superannuation including promotion awarded are listed below.

Sl. No.	Name of the petitioner	Date of appointment	Date of Promotion/ Post	Date of Superannuation
1	G.Renganathan, AEL, Cuddalore	11.01.1989	28.05.1997-GA 11.02.2011-AM	31.05.2013
2	K.e.Mohanan, DEE, Ambattur	03.04.1989	20.05.1994-GA	30.06.2010

The petitioner has been appointed at the entry post of Junior Assistant (Re-designated as Assistant in TNPCB), and there is no difference in the scale of pay with respect of the Government Service. The TNPCB follows the pay structure and fixing the scale of pay as per the G.O.



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issued during the pay commission for the year 1998 and 2009. Hence the writ petition is liable to be dismissed as devoid of merits.

4. The primordial contention of the petitioner is that though the Division Bench had passed order, directing the respondent Board to consider the claim of the petitioner on par with his Junior K.E.Mohanan working in the same Board, the petitioner's representation was not duly considered by the respondent and issued the impugned order. Hence the impugned order is liable to be set aside.

5. On perusal of the para 5 of the counter affidavit shows that the petitioner was appointed on 11.01.1989 as Assistant and he was promoted to the post of General Assistant on 28.05.1997. Whereas, one Mr.K.E.Mohanan was appointed on 03.04.1989, and he was promoted as General Assistant on 20.05.1994. Further, in the impugned order passed by the respondent, there is no reason adduced for rejecting the claim of the petitioner, when there is a specific direction by the Division Bench of this Court to consider the case of the petitioner for regularization, on par with the case of K.E.Mohanan.



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6. The grievance of the petitioner is that, there is a discrimination in the date of regularisation of the petitioner as well as K.E.Mohanan. While passing order in W.P.No.17836 of 1995 dated 06.01.1999, this court has specifically observed that the petitioner cannot make an issue of the solitary case of Mohanan which had been demonstrated to be not in any way discriminatory in nature attracting Art.14 of Constitution of India. Hence, the above order was challenged by the petitioner by way of Appeal in W.A.2920 of 2003 and the Division Bench of this Court has clearly observed as follows:

" We verified the details furnished in G.O,Ms.No.333 dated 12.10.1995 and other service particulars of the appellant as well as K.E.Mohanan. On going through the same we are of the view that ends of justice would be met by directing the respondents to consider the grievance of the appellant for regularisation on par with the case of one K.E.Mohanan, Assistant, working in the same Board, within a period of eight weeks from the date of receipt of a copy of this order."



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7. On reading of the impugned order shows that, there is no discussion or any findings to the grievance of the petitioner and also the order of the Division Bench was not properly complied with. The respondent ought to have considered the claim of the petitioner and then answered to the grievance of the petitioner. Hence, this Court has no hesitation to quash the order passed by the respondent Board.

8. Accordingly, it is ordered as follows.

i) The impugned order passed by the respondent Board dated 04.07.2007 is quashed.

ii) The respondent is directed to consider the representation of the petitioner dated 26.06.2007 afresh, and pass appropriate order on its own merits, in accordance with law, in the light of the Orders passed by the Division Bench of this court in W.A.No.2920 of 2003 dated 08.01.2007.

iii) It is made clear that the respondent has to pass detailed reasoning order, within a period of 12 weeks from the date of receipt of a copy of this order, after affording opportunity to the petitioner.



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iv) If the petitioner is succeeded in his claim, he is entitled for interest, as per law.

9. With the above directions, this writ petition is disposed of. No costs.

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Index:Yes/No
Internet:Yes/No
mst

To

1. The Principal Chief Conservator of Forests,
Panagal Buildings, Saidapet,
Chennai 600 015.
2. The District Forest Officer,
Salem Forest Division,
Salem District.



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D. KRISHNAKUMAR, J.
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