



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.4839 of 2011

K.Mariappan

...Petitioner

-Vs-

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

2.The Chief Engineer and
Engineer-in-Chief,
Public Works Department,
Chepauk, Chennai - 5.

3.The Chief Engineer,
Public Works Department,
Madurai Region, Madurai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for records relating to the second respondent's proceedings made in Lr.No. S4(1)/61984/2010-1 dated 16.12.2010, to quash the same and consequently direct the respondents to absorb the petitioner as Technical Assistant with all other consequential notional and service benefits, forthwith.

For Petitioner : Mr.L.Chandrakumar

For Respondents: Mr.Veda Bagath Singh,
Special Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. By placing reliance on a proposal dated 26.09.2003 issued by the Engineer-in-Chief, Public Works Department, to get transfer appointment to the post of Technical Assistant, the petitioner claims retrospective promotion from the year 2003 onwards. The second respondent had rejected such a claim through



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the impugned order dated 16.12.2010. In the proposal dated 26.09.2003, it is stated that the petitioner would be eligible to seek for transfer appointment to the post of Technical Assistant, subject to the condition that there are vacancies in the encadared strength of Technical Assistant.

3. In the counter affidavit filed by the respondents, it is stated that the petitioner's name was found in the approved seniority list dated 08.03.2004 at Serial No.37 and the petitioner's candidature was not considered, since 36 seniors in the approved seniority list were required to be accommodated and thereafter, the petitioner would be entitled for promotion.

4. I do not find any infirmity in the impugned order, in the light of the statement made in the counter affidavit. When there are 36 seniors above the petitioner, a mere reliance on the proposal of the Engineer-in-Chief, dated 26.09.2003 and claiming retrospective transfer appointment, cannot be sustained, since the seniors require to be accommodated.

5. At this juncture, the learned counsel for the petitioner submitted that the moment the petitioner completes 4 years of service in the post of Technical Assistant, he would be eligible to the post of Junior Engineer, which has not been done in his case. According to the learned counsel, the petitioner was promoted as Technical Assistant on 18.01.2010 and therefore, he is entitled to be promoted to the post of Junior Engineer on completion of 4 years, i.e. in 2014 itself, whereas, he was granted promotion to the post of Junior Engineer only in the year 2018.

6. The promotion to the post of Junior Engineer is not a subject matter of the present writ petition. However, if the petitioner is of the view that he would be entitled for promotion to the post of Junior Engineer on completion of 4 years of service in the Technical Assistant post, liberty is hereby granted to him to make an appropriate representation to the concerned authority, seeking for such a promotion and on receipt of such a representation, the concerned authority may consider the same, in accordance with law.

7. In the light of the above observations, I do not find any infirmity in the impugned order and hence, the Writ Petition stands dismissed with the above liberty. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar



hvk

To

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1. The Secretary,
State of Tamil Nadu,
Public Works Department,
Fort St. George, Chennai - 9.
2. The Chief Engineer and
Engineer-in-Chief,
State of Tamil Nadu,
Public Works Department,
Chepauk, Chennai - 5.
3. The Chief Engineer,
Public Works Department,
Madurai Region, Madurai.

+1cc to Mr.L.Chandrakumar, Advocate SR.No.12592

+1cc to Government Pleader SR.No.12802

W.P.No.4839 of 2011

PMK (CO)
GMY (08/03/2022)