



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.1312 of 2020

WEB COPY

K.Moorthy ... Petitioner
vs.

1.The Commissioner of Municipal Administration
Office of the Municipal Administration
Raja Annamalaipuram
75, Santhom Highway
M.R.C.Nagar, Chennai-600 028

2.The Joint Administrative Director of
Municipal Administration
Raja Annamalaipuram
75, Santhom Highway
M.R.C.Nagar, Chennai-600 028

3.The Commissioner and the Special Officer
Thanjavur Corporation
Arignar Anna 100th Centenary Building
Raja Mirajdar Hospital Road
Thanjavur District

4.The Executive Engineer
Thanjavur Corporation
Arignar Anna 100th Centenary Building
Raja Mirajdar Hospital Road
Thanjavur District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents to give promotion to petitioner by considering petitioner's qualification of B.Tech Civil Engineering to the Post of Technical Assistant/Junior Engineer in the office of the 3rd respondent by considering petitioner's representation dated 23.10.2019 within the time stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.A.K.Manikkam
Special Government Pleader for R1 & R2
Mr.N.Dilip Kumar for R3 & R4



O R D E R

The relief sought for in this writ petition is to direct the respondents to give promotion to the petitioner by considering his qualification of B.Tech Civil Engineering to the post of Technical Assistant / Junior Engineer in the office of the third respondent by considering his representation dated 23.10.2019.

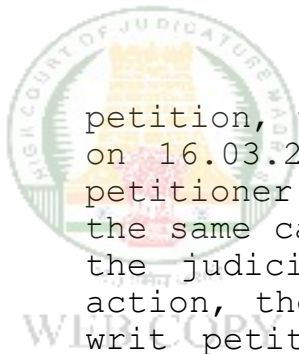
2. The petitioner states that he was appointed as Wireman on 01.12.1995, however no promotion has been granted to him. Thus, the petitioner sent a representation to the respondents to give promotion to the post of Technical Assistant / Junior Engineer.

3. The learned counsel appearing for the respondents 3 and 4 made a submission that the petitioner is now working as Grade-II Skilled Wireman from 2016 onwards and he has to be promoted as Grade-I Skilled Wireman and thereafter only, further promotions will be granted in accordance with the Promotion Rules in force and based on the seniority.

4. The learned counsel for the respondents 3 and 4 further submitted that this writ petition is hit by the principles of *res judicata* as the very same petitioner earlier filed W.P.No.43505 of 2016 before the Principal Bench of this Court and the said writ petition was disposed of on 19.12.2016 with a direction to the Authority concerned to consider the petitioner's representation. As per the orders passed by the High Court in the above writ petition, the representation submitted by the petitioner was considered and rejected by the first respondent vide proceedings dated 16.03.2017. The said rejection order has not been challenged by the petitioner for the past five years. However, he filed this writ petition seeking the very same relief to direct the respondents to consider his representation and grant promotion to the post of Technical Assistant / Junior Engineer.

5. This Court is of the considered opinion that all promotions are to be granted strictly in accordance with the Promotion Rules in force. Promotion *per se* cannot be claimed as a matter of right. Consideration for promotion is a right of an employee. Thus, whenever an administrative decision is taken to fill up the vacancies by promotion, the name of eligible persons are to be considered in accordance with the Rules in force. Thus, by merely filing a writ petition seeking promotion cannot be granted and such a prayer in the absence of any valid reasons cannot be granted.

6. In the present writ petition, for the same relief, the petitioner earlier filed W.P.No.43505 of 2016 before the Principal Bench of this Court and based on the order in the said writ



petition, the first respondent rejected the claim of the petitioner on 16.03.2017 and the said order has not been challenged by the petitioner. This being the factum, filing another writ petition for the same cause of action is improper and the petitioner cannot abuse the judicial process in such a manner. For the same cause of action, the petitioner cannot file writ petitions repeatedly. Such writ petitions are to be dismissed with heavy costs. However, taking a lenient view of the matter, the petitioner is restrained from filing such vexatious litigations repeatedly on the same cause of action.

7. With the above observations, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Commissioner of Municipal Administration,
Office of the Municipal Administration,
Raja Annamalaipuram,
75, Santhom Highway,
M.R.C.Nagar, Chennai-600 028.

2.The Joint Administrative Director of
Municipal Administration,
Raja Annamalaipuram,
75, Santhom Highway,
M.R.C.Nagar, Chennai-600 028.

+1 CC to M/s.SPL.GP (SR-17160[F] dated 07/04/2022)

+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-17368[F] dated 07/04/2022)

W.P. (MD) No.1312 of 2020
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RD(18.04.2022) 3P 5C