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W.P.(MD)No.18550 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.18550 of 2015

and

M.P.(MD)Nos.1 and 2 of 2015

V.Ramar

... Petitioner

vs.

1.The State of Tamil Nadu,
represented by its Principal Secretary,
Department of Rural Development and Panchayat Raj,
Secretariat, Chennai.

2.The Director,
Rural Development and Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 600 015.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned Rules framed by Notification III made in G.O.(Ms) No.15 Rural Development (E1) Department, dated 25.01.2000, issued by the 1st respondent and the consequential Panel for the year 2015 -16 for promotion as Assistant Executive Engineers (RD) issued by the 2nd respondent in his proceedings RC No.17053/2015/EE1, dated 06.08.2015 and to quash the same as illegal and consequently to direct the respondents to draw a fresh panel by adopting the ratio for appointment to the post of Assistant Executive Engineer, from the category of Assistant Engineers and from the combined categories of Junior Engineers and Senior Draughting Officers as 6:3 within the period that may be stipulated by this Court.

For Petitioner : Mr.M.E.Ilango

For R1 and R2 : Mr.R.Ragavendran
Government Advocate (Civil side)

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned Rules framed by Notification III made in G.O. Ms. No. 15 Rural Development (E1) Department, dated 25.01.2000, issued by the 1st respondent and the consequential Panel for the year 2015 -16 for promotion as Assistant Executive Engineers (RD) issued by the 2nd respondent in his



proceedings RC No.17053/2015/EE1, dated 06.08.2015 and to quash the same as illegal and consequently to direct the respondents to draw a fresh panel by adopting the ratio for appointment to the post of Assistant Executive Engineer, from the category of Assistant Engineers and from the combined categories of Junior Engineers and Senior Draughting Officers as 6:3 within the period that may be stipulated by this Court.

2. The brief facts of the case are that the petitioner was appointed as Draughting Officer in the year 1981 in Highways Department then, transferred to Rural Department and Panchayat Raj Department. Now, the petitioner is working as Senior Draughting Officer from 01.08.2014. The petitioner was working as Junior Engineer for more than 10 years and was conferred with Selection Grade and thereafter, promoted as Senior Draughting Officer. The contention of the petitioner is that in the G.O. Ms. No. 15 Rural Development (E1) Department dated 25.01.2000 states the method of recruitment, which is extracted here under:

"RULES

The General and the special rules applicable to the holders of the permanent posts in the Tamilnadu Panchayat Development service shall apply to the holder of the temporary post of Assistant Executive Engineer in Rural Development Department subject to the modifications specified in the following rules:

2. Constitution: The post shall constitute a separate category in the said service.

3. Appointment: (1) Appointment to the post shall be made.

1) (a) Recruitment by transfer from the categories of Junior Engineer and Senior Draughting Officer of the Tamilnadu Rural Development Department and

(b) Promotions from the category of Assistant Engineer in the Rural Development Department.

2) The ratio for a appointment to the post, by promotion from the category of Assistant Engineer and by recruitment by transfer from the categories of Junior Engineer and Senior Draughting Officer shall be 6:2:1. The following rotation shall be followed while filling up of the vacancies arising in a year :-

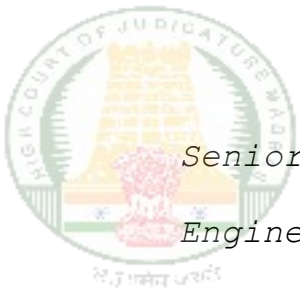
(1) Promotion from the category of Assistant Engineer.

(2) Promotion from the category of Assistant Engineer.

(3) Recruitment by transfer from the category of Junior Engineer.

(4) Promotion from the category of Assistant Engineer.

(5) Promotion from the category of Assistant



(6) Recruitment by transfer from the category of Senior Draughting Officer.

(7) Promotion from the category of Assistant Engineer.

(8) Promotion from the category of Assistant Engineering.

(9) Recruitment by transfer from the category of Junior Engineer.

(3) Promotion: promotion to the post shall be made on the basis of merit and ability and seniority shall be considered only where the merit and ability are approximately equal.

(4) Qualification: No person shall be eligible for the appointment to the post by the method specified in column (1) of the Table below, unless he possesses the qualifications specified in the corresponding entries in column (2) thereof."

3.The petitioner is aggrieved by the ration of 6:2:1. The contention of the petitioner was that he was working as Junior Engineer, thereafter, promoted as Senior Draughting Officer. By this Rule, the Junior Engineer as well as the promoted post of Senior Draughting Officer are placed as feeder category along with Assistant Engineer for the promotion of Assistant Executive Engineer. When the Junior Engineer was promoted as Senior Draughting Officer, both cannot be placed on par as feeder category to the promotion of the Assistant Executive Engineer which results in competing with the juniors. Any promotion ought to be among the same cadre of people. But the present rule is making the Junior Engineer after promotion as Senior Draughting Officer compete again with the Junior Engineers. Admittedly, those Junior Engineers would be juniors to the person who is holding that post of Senior Draughting Officer, which is resulting in anomaly and causing unrest among the post of the Senior Draughting Officer.

4.The respondents have filed a counter affidavit stating that there is no separate seniority list for the Junior Engineer and the Senior Draughting Officer and a combined seniority list is only being maintained for both categories, since so far as no necessity have arisen for maintaining separate seniority lists. The petitioner is not having any dispute over the promotion to the Assistant Executive Engineer from the category of Assistant Engineers. Based on the rules framed in G.O.Ms.No.15, only juniors were drawn during the year 2009-2010, 2010-2011, 2014-2015 and promotion orders were issued to the qualified and eligible Assistant Engineers / Junior Engineers / Senior Drafting Officers as per the ratio prescribed. The present Writ Petition is filed to quash the G.O. after the lapse of 15 years, since the G.O. was issued in the year 2000. This was issued after the confirmation of the seniority list communicated to the individuals. Till now, said promotion to



the post of Assistant Executive Engineer is being given only based on the rules framed by the Government which is in existence till now and so far there was no violation of it. As per the said G.O. the ratio is 6:2:1 and the appointment to the Assistant Executive Engineer shall be made:

"Appointment to the post of Assistant Executive Engineer shall be made

1.a) Recruitment by transfer from the categories of Junior Engineers and Senior Draughting Officer of the Tamil Nadu Rural Development Department and

b) Promotions from the category of Assistant Engineer in the Rural Development Department

No person shall be eligible for the appointment to the post by the method specified in column (1) of the table below, unless he possess the qualifications specified in the corresponding entries in column (2) thereof.

Method of Appointment	Qualification
(a) Promotion from Assistant Engineer in the Rural Development Department	1.A degree in Civil Engineering or a pass in section A & B examinations (AMIE) conducted and 2.Service as Assistant Engineer for a period of not less than five years on duty.
(b) Recruitment by transfer from Junior Engineer and Senior Draughting Officer in the Rural Development Department.	1.A Diploma in Civil Engineering and 2.Service as Junior Engineer or Senior Draughting Officer as the case may be, for a period of not less than five years on duty in the Tamil Nadu Rural Development Department."

The petitioner's claim to revise the ratio as 6:3 would create confusion in the seniority panel. Therefore, prayed to dismiss the Writ Petition.

5. Heard Mr.M.E.Ilango, learned Counsel appearing for the petitioner and Mr.R.Ragavendran, learned Government Advocate appearing for the first and second respondents and perused the materials placed on record.

6.The issue in this Writ Petition is for the promotion to the post of Assistant Executive Engineer III feeder category is prescribed as under:

- 1) Assistant Engineers
- 2) Junior Engineer
- 3) Senior Drafting Officer.

7. For the post of Senior Drafting Officer the feeder category

is Junior Engineers.



8. The contention of the petitioner is once a person is promoted from Junior Engineer to Senior Drafting Officer again the Senior Drafting Officer was compelled to compete with the Junior Engineers who would admittedly be juniors to them.

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9. This Court is of the considered view that the Junior Engineers and the Senior Draughting Officers cannot compete on par with each other when the post of Senior Draughting Officer is a promotion post. As rightly pointed out by the Learned Counsel for petitioner, after promoting from Junior Engineer as Senior Drafting Officer, the Senior Drafting Officer are compelled to compete with the Junior Engineers. This Court is of the considered opinion that the rule is creating a situation that after promoting a person to Senior Drafting Officer, he is demoted to Junior Engineer and then promoted as Assistant Executive Engineer. The concept of promotion is to move upwards to a higher position, but this amendment is lower one step, in order to be promoted to next level. Therefore, the ratio of 6:2:1 ought to be set aside. Therefore, this Court is setting aside that portion of the order where it gives a ratio as "6:2:1"

10. The contention of the respondents that so far as no necessity have arisen for maintaining separate seniority lists and hence it was not considered, is not acceptable. The Learned Counsel for the petitioner submitted that since the petitioner has filed this writ petition the petitioner was not allowed to work peacefully and had undergone so many difficulties and has attained superannuation and has not received any terminal benefits. This itself is an indication that there are some silent sufferers and hence the respondents with might power have suppressed the aspirants. Even though fixing the ratio is policy decision, for the reasons stated supra, this Court is inclined to direct the respondents to fix the ratio as 6:3 and the ratio shall be fixed from the year 2022. All the future seniority shall be prepared with this ratio and all further promotions shall be granted based on this ratio.

11. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

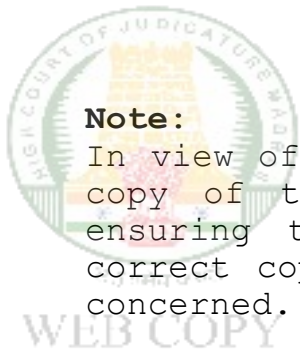
Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The Principal Secretary,
Department of Rural Development
and Panchayat Raj,
Secretariat, Chennai.
- 2.The Director,
Rural Development and Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 600 015.

+1 CC to M/s.SPL.GP (SR-4551[F] dated 07/02/2022)

W.P. (MD) No.18550 of 2015
03.02.2022

RK(21/03/2022) 6P 4C