



W.P.(MD).No.16751 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.16751 of 2018

and

W.M.P.(MD).Nos.14808, 14809 and 14810 of 2018

R.Radha Muthukumari

... Petitioner

Vs.

1.The Secretary to Government,
Highways & Minor Ports (HL2),
Government of Tamil Nadu,
Fort St.George, Chennai – 600 009.

2.The Director General (H),
Highways Department,
Integrated Chief Engineer Office,
76, Sardar Patel Road,
Guindy, Chennai – 600 032.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in G.O.(D). No.167 dated 27.06.2018 and impugned order of the second respondent in Proceeding No.1768/Confidential 3(1)/2014-2 dated 06.08.2015 quash the same and consequently direct the respondents herein to include the name of the



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petitioner in the panel for promotion to the post of Assistant Divisional Engineer reckoning from 01.01.2015 and promote the petitioner as Assistant Divisional Engineer on par with his juniors with all monetary and attendant benefits.

For Petitioner : Mr.S.Ram Sundar Vijay Raj,
For M/s.Veera Associates.

For Respondents : Mr.N.Muthu Vijayan,
Special Government Pleader.

ORDER

This Writ Petition is filed challenging the impugned order passed by the first respondent in G.O.(D).No.167 dated 27.06.2018 and the impugned order of the second respondent dated 06.08.2015 with a consequential relief to grant promotion to the post of Assistant Divisional Engineer from 01.01.2015.

2. The petitioner joined service as Assistant Engineer on 05.07.2007 and completed 18 years of service. The second respondent prepared a panel through proceedings dated 14.12.2016 by treating 01.01.2015 as crucial date. The petitioner's name was found in Serial No.51. When the panel was implemented on 12.06.2017, the petitioner's juniors were granted promotion and the petitioner was not granted inspite of the petitioner is eligible for



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granting promotion. The act of the respondents by excluding the petitioner from the zone of consideration through the impugned proceedings is challenged in this Writ Petition. The petitioner has availed leave from 07.06.2014 to 19.09.2014 on medical grounds. The contention of the petitioner is that because of her menopause, she was advised to take leave and take rest. Subsequently, on 19.09.2014, after her claim under medical leave was over, the petitioner submitted application and reported for duty and sought permission to join the duty. However, the respondents kept the petitioner under the waiting period category. The waiting period was from 19.09.2014 to 26.05.2015. On 26.05.2015, the petitioner was transferred to Paramakudi and she joined the service. The leave period from 07.06.2014 was regularized as under:

1. 07.06.2014 Kjy; 19.09.2014 Koa-105 ehl;fs; kUj;Jtr;rh;wpd;nglpy; <l;lh tpLg;g[.
2. 20.09.2014 Kjy; 18.12.2014 Koa-90 ehl;fs; brhe;j fhuzq;fSf;fhd <l;lh tpLg;g[
3. 19.12.2014 Kjy; 18.03.2015 Koa-90 ehl;fs; <l;oa tpLg;g[.
4. 19.03.2015 Kjy; 26.05.2015 Koa-69 ehl;fs; Cjpakpy;yh tpLg;g[.



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3. In spite of regularizing the said period, the petitioner was not considered for promotion during the crucial date 01.01.2015. The contention of the petitioner is that the petitioner has availed leave until 19.09.2014 and the cutoff date is 01.01.2015. It is the respondents who kept the petitioner under waiting period from 19.09.2014 to 26.05.2015. The said mistake of the respondents cannot be fastened on the petitioner and the petitioner cannot be deprived of promotion in the year 2015.

4. The learned Special Government Pleader appearing for the respondents submitted that subsequently the petitioner was granted promotion as Assistant Engineer on 05.11.2019 and hence the petitioner cannot have any grievance.

5. The petitioner is claiming promotion in the year 2015 itself. The reason for declining promotion is that since the petitioner has availed leave from 07.06.2014 to 26.05.2015, the petitioner is not entitled to promotion. Such plea of the respondents cannot be entertained, since from 19.09.2014 to



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26.05.2015, it is the mistake of the respondents who had kept the petitioner under compulsory waiting period.

6. Therefore, the impugned order declining promotion from the year 2015 is not sustainable and the impugned order is set aside. The respondents are directed to confer promotion notionally from the year 2015 onwards by fixing the date on which the petitioner's junior was granted promotion and grant the monetary benefits and service benefits that is applicable for the promoted post from 2015 onwards. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. In view of the above directions, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

15.12.2022

Index : Yes / No
Internet : Yes/ No
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S.SRIMATHY, J.

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