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W.P.No.1650 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.1650 of 2015

V.Rajendran

.... Petitioner

vs

The Chairman
Tamil Nadu Pollution Control Board,
No.76, Mount Salai,
Guindy,
Chennai – 32.

.... Respondent

Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in proceedings Memo No.L.Dis/Per/P6/036309/2013 dated 27.11.2013 and quash the same as illegal, incompetent and without jurisdiction and further direct the respondent to sanction the increment as envisaged in G.O.Ms.No.1159 dated 21.11.1984

For Petitioner : Mr.R.Poornima

For Respondent : Mrs.Vijayakumari Natarajan,
Standing Counsel



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ORDER

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This writ petition has been filed by the petitioner challenging the order passed by the respondent, rejecting the request of the petitioner to sanction two advance increments and consequently direct the respondent to sanction the increment as envisaged in G.O.Ms.No.1159 dated 21.11.1984.

2. The case of the petitioner is that he completed M.E. degree in April, 2010. As per G.O.Ms.No.1159 dated 21.11.1984, the Government has sanctioned increment with effect from the date of acquiring such qualification and that too, when the master's degree is not sponsored by the Board. Therefore, the petitioner became eligible to get sanction of increment and submitted his application to the Board in that regard. Subsequently, amendment was made to G.O.Ms.No.1159 dated 21.11.1984 in G.O.Ms.No.97 dated 05.07.2010, which reads as follows:

"4. (i) The scheme of sanction of advance increments is applicable to officers upto and inclusive of second level officers below the heads of department.

(ii) If the Special qualification is prescribed as one of the requisite qualification for appointment to any post or where the scale of pay for such post is prescribed taking into account the special qualification for



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appointment to any post or where the scale of pay for such post is prescribed, taking into account the special qualification the scheme will not be applicable to those acquiring the special qualification.

iii) Where the government have spent money on any officer by giving him study leave and allowances or have treated the study period as duty with full pay and allowance for acquiring the special qualification other than account test for subordinate officers Part-I is made essential for further promotion he is not entitled to the benefit.

(iv) in respect of those for whom the post-graduate qualification is made essential for further promotion they are also not entitled for the benefit."

The said amendment came into force from 05.07.2010. The petitioner will not fall under any of the aforesaid 4 conditions. The Board rejected his request by proceedings dated 18.05.2012. Similarly placed persons filed Writ petition and they were sanctioned with increments. The petitioner again made request citing the sanctioning of increments for the similarly placed persons. The Board again, rejected the petitioner's request to grant increment for M.E.degree. Hence, the present writ petition.

3. Heard the learned counsel for the petitioner and the learned counsel



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appearing for the respondent.

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4. Learned counsel for the petitioner would submit that the petitioner had acquired the Master's degree as early as in April, 2010. Once the petitioner had acquired the master's degree, he is eligible to get the sanction of increment and the same cannot be denied on whimsical and fanciful reasons. Learned counsel for the petitioner would further submit that similarly placed person like that of the petitioner were deputed to the Department of Environment, but when it comes for sanction of increment for the petitioner, the respondent states that the nature of work is different, which is contradictory. He would further submit that whenever necessary the Tamil Nadu Pollution Control Board used to appoint the Scientist as Assistant Engineers on deputation to department of environment. If such is the case where the Engineers and Scientist are doing the work to achieve a common goal, an individual with a valid M.E. degree should be recognised and given the increments as permitted by the Government Order.

5. Per contra, the learned counsel for the respondent would submit that the petitioner was assigned with the work related to implementation of analytical work in laboratory and conducting air survey etc. The M.E. (Environmental Engineering qualification) has no relevance for the work



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carried out by the petitioner. The Engineering carrier path and the scientific path are different in nature. Therefore, by merely acquiring a PG degree in Environmental Engineering does not give him the right for seeking advance increment as sanctioned to Environmental Engineering personnel. Hence, he would pray to dismiss the writ petition.

6. It is not in dispute that the petitioner completed M.E. degree from Sathyabama University in Environmental Engineering in April, 2010. In G.O.Ms.No.1195 dated 11.07.1972, the Government has granted advance increments to Assistant Engineers/ Executive Engineers/Divisional Engineers with Post Graduate degree in Engineering from the date of acquiring the post graduate degree qualifications. It is pertinent to note from the counter filed by the respondent, that the petitioner obtained permission for pursuing his Master Degree and completed the same. It is also seen that the master degree was completed by the petitioner in April, 2010 itself i.e., before the amendment in G.O.Ms.No.1159 made in G.O.Ms.No.97 dated 06.07.2010, which came into force from the date of the said amendment order. Further, similarly placed persons like that of the petitioner were sanctioned two advance increments. G.O.Ms.No.1159 dated 21.11.1984, clearly states that two advance increments should be granted to those who



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have acquired post graduation in Engineering from the date on which they acquire the post graduate degree. The petitioner has acquired post graduate degree before the amendment in the said G.O. came into exist. Therefore, this Court is of the opinion that the petitioner is entitled for the grant of increment as envisaged in G.O.Ms.No.1159 dated 21.11.1984.

7. In the result, the Writ Petition is allowed. The impugned order dated 27.11.2013 passed by the respondent is hereby quashed. The respondent is directed to sanction the increments as envisaged in G.O.Ms.No.1159 dated 21.11.1984 to the petitioner. No costs.

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Index:Yes/No
Speaking/Non-speaking order
vsi

To

The Chairman
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