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W.P.No.26851 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

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THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P No.26851 of 2013

Mr.S.Sethupathy

...Petitioner

Vs.

The State
Rep by its Principal Secretary to Government
Highways and Minor Ports (HL2) Department,
Secretariat,
Fort St.George, Chennai-600 009.

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of respondent in G.O.(D) No.162, Highways and Minor Ports(HL2) Department dated 12.08.2013 and quash the same and consequently direct the respondent to place the name of the petitioner in ensuing promotional panel for the post of Divisional Engineer and promote the petitioner in accordance with the seniority.

For Petitioner : Mr.K.M.Vijayan Associates

For Respondent : Mr.Ameedius
Government Advocate



ORDER

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This writ petition has been filed questioning the order issued by the respondent in G.O.Ms.No.162, Highways and Minor Ports(HL2) Department dated 12.08.2013 and sought for consequential direction to the respondent to place the name of the petitioner in the ensuing promotional panel for the post of Divisional Engineer and to promote the same in accordance with the seniority of the petitioner.

2. Through the impugned Government Order, the petitioner was imposed with a punishment of stoppage of increment for a period of two years without cumulative effect, besides a recovery of loss of an amount of Rs.35,275/-

3. The learned counsel for the petitioner having taken note of the fact that the petitioner has already undergone the punishment through the impugned Government Order, confined his submissions only to the extent of directing the respondent to consider the case of the petitioner for promotion in terms of his seniority by duly including his name in the ensuing panel and to pass appropriate orders for consideration in this case.



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4. In the counter affidavit filed by the respondent, it is stated that the petitioner is entitled for further promotion only after completion of the punishment as per the rules if he is otherwise eligible.

5. As the punishment that was imposed on the petitioner through the impugned order has already been worked out, the petitioner is entitled for consideration of his case for promotion immediately after completion of the said punishment in the year 2015. However, as submitted by the learned counsel for the petitioner, the case of the petitioner has not been considered for the past about 8 years and the same is also not likely to be considered because of the pendency of the present writ petition.

6. Considering the submissions of the learned counsel on either side, this Court does not find any sustainable ground for not considering the case of the petitioner for promotion in accordance with law to the post of Divisional Engineer once the currency of punishment is over.



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7. In such circumstances, this writ petition is disposed of by directing the respondent to consider the case of the petitioner for promotion to the post of Divisional Engineer by duly including his name in the ensuing panel in accordance with law.

28.11.2023

Index : Yes
Internet : Yes
Speaking Order
Neutral Citation Case :No
nr

Note:Issue order copy on 29.11.2023



W.P.No.26851 of 2015

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To
The Principal Secretary to Government
Highways and Minor Ports (HL2) Department,
Secretariat,
Fort St.George, Chennai-600 009.



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W.P.No.26851 of 2013

MUMMINENI SUDHEER KUMAR, J.

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