



WEB COPY

W.P.No.4080



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 24.11.2023**

CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.No.4080 of 2012**

A.Senthil Kumar

... Petitioner

Vs.

1. Government of Tamil Nadu,  
Rep. by its Secretary to Government,  
Public Works Department,  
Fort St. George,  
Chennai – 600 009.

2. The Engineer -in- Chief (WRO) and  
the Chief Engineer (General),  
Public Works Department,  
now designated as Engineer -in- Charge in Buildings &  
the Chief Engineer Buildings &  
the Chief Engineer General (Chennai Region),  
Chepauk, Chennai – 600 005.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the entire records which culminated in issuing the Letter No.S2 (2)/74174/07 dated 25.09.2009 on the file of the second respondent, quash the same and consequently direct the respondents to step up the pay of the petitioner on pay with his Junior G.Kalilakshmi from October 2007, the date on which the petitioner was selected to the post of Assistant Engineer (Civil) with all consequential benefits.



For Petitioner : Mr. S.Mani

For Respondents : Mr. T.Cheziyan,  
Additional Government Pleader

### **ORDER**

This Writ Petition has been filed aggrieved by the communication vide Letter No.S2 (2)/74174/07 dated 25.09.2009 of the respondent no.2, informing the petitioner that his request for counting of service, grant of salary and other benefits for the period prior to the date of joining of the petitioner in the Department cannot be granted.

2. Heard Mr. S.Mani, learned counsel for the petitioner and Sri.T.Chezhiyan, learned Additional Government Pleader appearing for the respondents. The petitioner, while seeking quashing of the impugned communication dated 25.09.2009 also sought for a consequential direction, directing the respondents to step up the pay of the petitioner on par with his Junior, M/s. G.Kalilakshmi with effect from October 2007 with all consequential benefits.



3. It is the contention of the learned counsel for the petitioner that the petitioner was selected along with one M/s. G.Kalilakshmi on 10.09.2007 by the Tamil Nadu Public Service Commission. But the petitioner was not given allotment and a consequential appointment letter pursuant to the selection dated 10.09.2007 for want of verification of the certificate produced by the petitioner pertaining to the B.E, Civil Engineering and Management course, as to whether the same is equivalent to B.E, Civil Engineering or not ?

4. The said clarification was sought from the Anna University and the same was declared as an equivalent qualification. Accordingly, the result of the petitioner was declared and he was appointed as Assistant Engineer (Civil) on 11.10.2008. Thereafter, the petitioner made a claim for extending the benefits on par with his Juniors, especially the Junior who is at Sl.No.340 in the selection list on the ground that the petitioner was at Sl.No.288 and he is entitled for all the benefits on par with the person, who is at Sl.No.340. The said claim of the petitioner was rejected through the impugned communication.

5. The learned counsel for the petitioner, though made a claim for all the consequential benefits on par with the Junior of the petitioner, confined his argument only to the extent of relief sought in respect of the seniority and the



consequential benefits in terms of the Rules governing the situation and given up the claim in respect of payment of the salary and other benefits prior to the date of appointment of the petitioner as Assistant Engineer (Civil).

6. In the light of the above, the only question that needs to be considered by this Court is with regard to the claim of the petitioner for seniority and other consequential benefits. At paragraph 6 of the counter affidavit filed by the respondent no.2, it is specifically contended that the seniority of the petitioner as per the original selection list drawn by the Tamil Nadu Public Service Commission will be maintained without any change. The claim of the petitioner in the Writ Petition is also for maintaining his seniority in terms of the selection list drawn by the Tamil Nadu Public Service Commission and for consequential benefits. In the light of the specific stand taken by the respondent no.2 in the counter affidavit, the claim of the petitioner stood admitted and no further adjudication is required to be done in this regard. However, in paragraph 12 of the counter affidavit, it is stated that in case if a person at the last of the selection list joins in service first and the person above him joins at a later point, the person who joined much later cannot claim the monetary benefits or increments on par with the persons, who joined at the earlier point of time. This situation does not arise in the instant case, as the



reason for the petitioner joining at a later point is not at his fault, but the same is because of the reasons beyond his control and also for want of necessary clarification sought by the respondents from the Anna University. In the light of the above, the petitioner is entitled for grant of relief, granting seniority in terms of the selection list drawn by the Tamil Nadu Public Service Commission.

7. Accordingly, the Writ Petition is disposed of directing the respondents to maintain the seniority of the Assistant Engineer (Civil) in terms of the selection list drawn by the Tamil Nadu Public Service Commission. In case, by virtue of seniority of the petitioner in terms of the selection list drawn by the Tamil Nadu Public Service Commission, he is entitled for stepping up, re-fixation or otherwise in terms of the relevant Rules, including the Fundamental Rules, the petitioner is granted liberty to make a representation to the respondents for grant of such relief. In case, if such request is made by the petitioner, the respondents shall consider the same and pass appropriate orders thereon by duly taking into consideration the observations made in this order. There shall be no order as to costs. Miscellaneous Petitions, if any, shall stand closed.



W.P.No.4080

**24.11.2023**

skr

Index : Yes

Speaking order

Neutral Citation : Yes



W.P.No.4080



To

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Public Works Department,  
Fort St. George,  
Chennai – 600 009.
  
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the Chief Engineer (General),  
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**MUMMINENI SUDHEER KUMAR, J.**

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