



W.P.No.7195 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.7195 of 2020
and WMP No.8595 and 8596 of 2020

S.Parthasarathy

... Petitioner

Vs.

1. The Managing Director
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Street, Chepauk,
Chennai – 600 005.
2. The Secretary Cum General Manager,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Street, Chepauk,
Chennai 600 005.
3. The Superintending Engineer,
Tamil Nadu Water Supply and Drainage Board,
Coimbatore Nilgiri Circle,
No.26, Corporation Shopping Complex,
Avinashi Road, Coimbatore – 641 018
4. The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Maintenance Division (Pillur),
No.4, Vilankurichi Road,
Vinobaji Peelamedu



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... Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus by directing the respondents to consider and appoint the petitioner as Assistant Engineer pursuant to the calling for application by letter No.24519/Pa.Ni.Pi/A1/2019 dated 22.11.2019 of the 1st respondent.

For Petitioner : Mr.V.Vijayashankar

For Respondents : Mr.S.Ravindran
Senior Counsel for
Mrs.Shakila Bhanu,
Standing counsel for respondent

ORDER

The petitioner was appointed as an Electrician in the 1st respondent Board on consolidated pay in the year 1997 and he got his service regularized during August 2006. He has completed Diploma in Civil Engineering and he also possess a Bachelor degree in Engineering. The petitioner claims that he is eligible to be considered for appointment by transfer to the post of Assistant Engineer and also as Junior Drafting officer. Earlier, the petitioner has filed two writ petitions in WP No.38213 and 37168 of 2015, challenging the punishment imposed



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against him and denial of promotion consequent to the said punishment.

The said writ petitions have already got dismissed. Even according to the respondents, the alleged punishment does not stand in the way of considering the petitioner for promotion but it is only the eligibility criteria. As per the recent resolution of the Board, the post of Assistant Engineer has to be filled up either by direct recruitment or by recruitment by transfer in the ratio of 1:2. In respect of recruitment by transfer, the employees ought to have completed 10 years of service by possessing a B.E. Degree. The petitioner claims that he has got the requisite qualification but he was not considered for recruitment by transfer even though the notifications for recruitments have been issued in the year 2014, 2015 and 2018 for the post of Assistant Engineer.

2. Mr.V.Vijayashankar, learned counsel for the petitioner submitted that the persons who are much junior to the petitioner's have already been considered and given promotions. By responding to the notification issued in the year 2019, the petitioner had sent his application enclosing necessary documents, by apprehending that his



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earlier punishment for stoppage of one year increment could have been held as a reason for withholding his promotion. The petitioner has stated that the above punishment will not stand in the way as it was not current at the time of the notification issued.

3. Mr.S.Ravindran, learned Senior counsel appearing for respondent submitted that the petitioner does not have the prescribed qualification for the Post of Assistant Engineer. According to TWAD Board Staff Regulation 1972, the petitioner should possess the requisite qualification and it has been extracted in Paragraph No.9 of the Counter affidavit and the same is extracted hereunder :-

9. With regard to the averments made in paragraph No.4 and 5 of the affidavit, it is submitted that as per the Tamil Nadu Water Supply and Drainage Board Service Regulations 1972, the qualification prescribed for the post of Assistant Engineer by the method of recruitment are as follows :-

By the Method Recruitment by Transfer

i) From the category of Junior Engineer or Draughting Officers or Junior Draughting Officers or Technical



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Assistant or from any other category.

ii) Must have acquired the following qualifications, namely, Degree in Civil or Mechanical Engineering. A pass in Sections A and B of the A.M.I.E Examination under Civil or Mechanical Engineering Branch subject to the following condition namely Must furnish evidence of having undergone practical training in surveying for a period of not less than one year.

iii) Must have put in a total service for a period of not less than 5 years as Draughting Officer of Junior Draughting Officer or Technical Assistant or in any other category.

As the petitioner does not fall under the above category, he was not eligible for the post of Assistant Engineer by the method of recruitment by transfer. However, the petitioner herein filed a writ petition in WP No.37168 of 2015 prayed to consider the request of the petitioner for promotion by transfer to the post of Assistant Engineer and this Hon'ble Court dismissed the above writ petition passed by an common order dated 11.09.2023.

4. By citing the above qualification, it is claimed by the learned counsel for respondent that the petitioner does not fit into any of



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the categories of eligibility and hence, he cannot be considered for promotion. Even though, the eligibility criteria does not mention a person who is working as an electrician and who is possessing B.E.degree, there is a open ended words seen as “Clause 3” Technical Assistant or in any category. The petitioner claims that he would fall under above category which is open ended and hence, it cannot be claimed by the respondents that the petitioner is not eligible for consideration.

5. Since the post of electrician is a technical post and the petitioner had completed more than 25 years of service and also has B.E.Degree, it may be possible that he would fall under the category of Technical Assistant and it won't be a problem for the respondents to consider the case of the petitioner for promotion by considering him as a person belonging to technical assistant or any other category. The petitioner has also claimed that similar persons who had the similar qualification have already been considered and they have been appointed as an Assistant Engineer. In such case, nothing would prevent the respondents to consider the name of the petitioner also for appointment



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through transfer.

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6. In view of the above submissions, this writ petition is disposed of by directing the respondents to consider the representation of the petitioner in the line of any other similar case, who have already been accommodated in the cadre of Assistant Engineer by appointment through transfer and pass orders, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

30.11.2023

Index : Yes

Internet : Yes/No

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R.N.MANJULA, J.



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