



W.P.No.7374 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.7374 of 2013

D.Velazhagan

...Petitioner

-Vs-

Tamil Nadu Pollution Control Board,  
Rep. by its Member Secretary,  
No.76, Mount Salai,  
Guindy, Chennai – 600 032.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the concerned records from the respondent, quash the order of the respondent dated 28.02.2013 bearing Memo No.Per/P1/19131/11 as illegal, arbitrary, contrary to law and consequently direct the respondent to fix the pay scale of the petitioner in the post of Assistant Environment Engineer from May 2007 being the date of completion of the post Graduate Degree or in the alternative atleast from the date when the punishment of four years was over viz., 06.04.2008, pay arrears of salary and fix the seniority of the petitioner in the post of Assistant Environmental Engineer by taking into account of the initial date of appointment.



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For Petitioner : Mr.S.Kavya  
For M/s.Balan Haridas

For Respondent : Ms.Vijayakumari Natarajan  
Standing Counsel.

### **ORDER**

This Writ Petition has been filed challenging the award of the respondent thereby rejecting the representation seeking promotion immediately after completion of the Post Graduate degree or after completion of period of punishment.

2. The petitioner was joined as Assistant Engineer in the year 1987 in the respondent board. Thereafter, he was promoted as Assistant Environment Engineer in the year 1993. In the year 1994, he faced disciplinary proceedings and he was dismissed from service. Though it was challenged in the appeal, the same was also dismissed. Aggrieved by the same, the petitioner filed a Writ Petition before this Court in W.P.No.13983 of 1998 and this Court by an order dated 23.09.2003, set aside the capital punishment imposed by the respondent and remitted back the matter to the respondent for conducting fresh enquiry.

3. As directed by this Court, the respondent conducted fresh



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enquiry and in that fresh enquiry it was held that charges 1 and 3 are not proved and the second charge alone proved, since the petitioner frequently absent from duty. As per the enquiry report, the petitioner was punished with reduction in the rank for five years as Assistant Engineer. Aggrieved by the same, the petitioner filed an appeal and in that appeal, the respondent reduced the punishment by four years by an order dated 21.11.2008.

4. The grievances of the petitioner is that even after completion of four years punishment, he was retained as Assistant Engineer without giving any promotional post. Further the petitioner was restored in the post of Assistant Environment Engineer only on 17.11.2010. He completed the Post Graduate degree in the month of May, 2007. In the order of punishment also, it is stated that acquiring Post Graduate Degree in Environment Engineering/Public Health is a pre-requisite qualification for the post of Assistant Environmental Engineer.

5. Therefore, the petitioner submitted detailed representation seeking to fix his pay scale in the post of Assistant Environmental



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Engineer from May, 2007, when he completed the post graduate decree or from 06.04.2008 when the punishment period was over and pay other arrears of payment if any. However, the said request was rejected by the impugned order, since the petitioner was not eligible for the post of Assistant Environmental Engineer on May, 2007 or 06.04.2008. Hence, the petitioner filed this present Writ Petition with the above said prayer.

6. The respondent filed counter and stated that though the petitioner's punishment was reduced from five years to four years, he was not qualified with post graduate decree in Environment Engineering/ Public Health Engineering. That apart, there was no vacancy in the post of Assistant Environmental Engineer, as such he was promoted to the post of Assistant Environmental Engineer, only after arising of vacancy viz., on 17.11.2010, as such he was promoted as Assistant Environmental Engineer on that date. Therefore, the representation of the petitioner was rightly rejected by the impugned order.

7. Heard the learned counsel appearing on either side and perused the records.



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8. The petitioner was originally joined in the post of Assistant Engineer on 01.12.1987. Thereafter he was promoted as Assistant Environmental Engineer in the year 1993. Thereafter, charge was framed and after enquiry he was dismissed from service. It was challenged before this Court in W.P.No.13983 of 1998 and this Court by an order dated 23.09.2003, directed the respondent to conduct fresh enquiry. On fresh enquiry, the petitioner was punished with reduction of rank for five years as Assistant Engineer and he was posted as Assistant Engineer in the scale of pay of Rs.6500-200-11100 to the office of District Environmental Engineer, Tuticorin.

9. It was challenged by the petitioner in the appeal and the respondent modified the punishment and reduction of rank for five years was modified as four years. Further, though the petitioner had completed his post graduate degree in the year 2007, the period of punishment was ended only on 06.04.2008. As rightly pointed out by the learned counsel appearing for the petitioner that as per the Tamil Nadu Pollution Control Board (Discipline and Appeal) Regulations, 1988, the punishment which can be imposed is as follows :-

*“(3) Reduction to a lower rank in the seniority*



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*list or to a lower post of time scale or to a lower state  
in the time scale”*

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Thus the punishment of reduction in the rank as Assistant Engineer is not contemplated as a punishment which could be imposed. As the punishment imposed is reduction to a lower rank, it can be only within the post of Assistant Environmental Engineer and not in the post of Assistant Engineer.

10. Further in the appeal, the punishment was confirmed and the period of punishment was reduced from five years to four years. At the time of completion of four years punishment, the petitioner was qualified with post graduate degree and as such the respondent ought to have reinstated his post as Assistant Environmental Engineer, immediately after completion of punishment period i.e., on 06.04.2008.

11. In view of the above the impugned order dated 28.02.2013 passed by the respondent in Memo No.Per/P1/19131/11, is hereby quashed. The respondent is directed to fix revised scale of the petitioner in the post of Assistant Environmental Engineer, from the date when the punishment of four years was completed viz., 06.04.2008, and pay



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arrears of salary and fix the seniority of the petitioner in the post of Assistant Environmental Engineer, within a period of eight weeks from the date of receipt of a copy of this Order.

12. With the above directions, the Writ Petition stands allowed.

There shall be no order as to cost.

03.07.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts

To

The Member Secretary,  
Tamil Nadu Pollution Control Board,  
No.76, Mount Salai,  
Guindy, Chennai – 600 032.



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**G.K.ILANTHIRAIYAN. J.**

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