



W.P.No.12550 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.12550 of 2020
and W.M.P.No.15467 of 2020

V.Muthusamy

...

Petitioner

/vs/

1. The Chairman,
Chennai Port Trust, Chennai – 1.

2. The Secretary,
Chennai Port Trust, Chennai – 1.

3. The Chief Engineer,
Chennai Port Trust, Chennai – 1.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from making promotions to the post of Assistant Executive Engineer (Civil) of persons junior to the petitioner without first regularising the petitioner's service as Assistant Executive Engineer (Civil) on par with his colleagues with all attendant benefits.

For Petitioner ... Mr.V.Vijayashankar

For Respondents ... Mr.R.Karthikeyan for R1 to R3



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ORDER

This writ petition has been filed for the issuance of a Writ of Mandamus forbearing the respondents from making promotions to the post of Assistant Executive Engineer (Civil) of persons junior to the petitioner without regularising the petitioner's service as Assistant Executive Engineer (Civil) on par with his colleagues with all attendant benefits.

2. The learned counsel for the petitioner submitted that the petitioner joined in service as Supervisor Grade II in Chennai Port Trust on 30.09.1993 and thereafter he got promoted as Supervisor Grade I in the year 1997 and subsequently promoted to the post of Assistant Engineer on 23.04.2015; suddenly an order of reversion was passed reverting the petitioner to the lower post of Assistant Engineer Class II with effect from 23.04.2015; the said order has been challenged in W.P.No.14583 of 2015 and it was stayed and still pending; during pendency of the Writ Petition, the second respondent has considered the promotion of petitioner's Juniors to the post of Assistant Executive Engineer Class I dated 24.08.2020; the petitioner's name in Sl.No.3 of the said order has been described as Assistant Engineer; since the petitioner has got the benefit of stay order, he ought not to have been designated as



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Assistant Engineer and he should have been treated as Assistant Executive Engineer.

3. The learned counsel for the respondents submitted that the petitioner has been restored to the post of Assistant Executive Engineer w.e.f. 23.04.2015 on adhoc basis by virtue of an order dated 26.02.2021.

4. However the petitioner's apprehension is that the third respondent has stated about some sealed cover procedure as against the petitioner. Normally sealed cover will be operated only if there is any charge memo or criminal case is pending against the individual. Despite the petitioner's names is found in the list along with his junior, it is alleged that there is a sealed cover pending against the petitioner. Since the petitioner has not given with any charge memo and no criminal case also pending against him, the sealed cover procedure against the petitioner ought not to have been invoked and the petitioner should have been considered along with his juniors for the purpose of regular promotion in the cadre of Assistant Executive Engineer.

5. While the third respondent was considering promotion for regular



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vacancies the petitioner was considered as an Ad-hoc promotee, though he was performing the duties of Assistant Executive Engineer for sixteen year.. Once the promoted post is filled on adhoc basis, the person who has been promoted will be regularized in the promoted post whenever the regular vacancy arises against him. Despite the regular vacancies are available and the benefit of getting regular promotions as against the required vacancies are available to juniors, the petitioner has been kept under adhoc basis along with an addition of sealed cover now.

6. In the impugned order it is stated that the petitioner is kept under adhoc promotion and a sealed cover has been placed because the genuine of his community certificate is under scrutiny and the final report on that has not been obtained.

7. The petitioner has joined in service as early as in the year 1993. After the petitioner had completed 30 years of service, the third respondent has racked up a new issue about the genuineness of the community certificate of the petitioner and that he is going to scrutinize the community certificate. It is



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unreasonable to state that the scrutiny procedure was pending nearly for sixteen years to hamper the career prospectus of an individual.

8. The third respondent has not properly considered the petitioner's case. The grievance of the petitioner is reasonable. Hence, I feel that the third respondent should be directed to consider the long service put in by the petitioner and treat him on par with his juniors.

9. With the above observation, this Writ Petition is disposed and the petitioner is at liberty to give a fresh representation to the third respondent and on receipt of the same, the third respondent shall consider the representation of the petitioner in the light of the above order in its true letter and spirit and pass orders within a period of six weeks. No costs. Connected miscellaneous petition is closed.

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



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R.N.MANJULA ,J.

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