



W.P.No.37904 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.37904 of 2006 &
W.M.P.No.13864 of 2019

L.Marimuthu

... Petitioner

Vs

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

2.The Engineer-in-Chief,
W.R.O.& Chief Engineer (General)
Public Works Department,
Chepauk, Chennai – 600 005.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to quash the proceedings of the second respondent in memo No.S3(5)/72827/96, dated 24.12.1996 and direct the respondents to give the same benefit of promotion as Junior Draughting Officer on completion of five years as Assistant Draughtsman i.e. with effect from 18.10.1977 as the benefit given to A.Muniasamy, S.Sakthivel and S.Subbiah who all belong to

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the same rural engineering survey cell division, Ramanathapuram Circle at Madurai, with the revised seniority in the category of Junior Draughting Officer and may be pleased to pass such further order.

For Petitioner : Mrs.A.L.Ganthimathi Senior counsel for
Mr.A.R.Karthik Lakshmanan

For Respondents : Mr.R.Neethi Perumal (GA)

ORDER

This Writ Petition had been taken on the file of this Court on transfer of the Original Application that was pending before the Tamil Nadu Administrative Tribunal, which was abolished.

2. The claim in the Writ Petition is to quash the order of the second respondent, dated 24.12.1996 and to direct the respondents to give the same benefit of promotion as Junior Draughting Officer as on completion of five years as Assistant Draughtsman i.e., with effect from 18.10.1977, as the benefit given to other persons, who belonged to the same Rural Engineering Survey Cell Division, Ramanathapuram Circle at Madurai, with revised seniority in the category of Junior

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Draughting Officer.

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3.Heard Mrs.A.L.Ganthimathi learned Senior counsel appearing for Mr.A.R.Karthik Lakshmanan, learned counsel appearing for the petitioner and Mr.R.Neethi Perumal, learned Government Advocate appearing for the respondents.

4.The learned Senior counsel appearing for the petitioner would submit that the petitioner was originally appointed as a Field Assistant cum Tracer in the Rural Engineering Survey Cell, Ramanathapuram Circle at Madurai on 07.10.1972. The Survey Cell of the Rural Engineering Cell Division was closed and the persons holding the post of Field Assistant cum Tracer were absorbed in other Divisions of Public Works Department as Assistant Draughtsman in the year 1979. The petitioner had been continuously working from 1972, as a Field Assistant cum Tracer and consequent to the absorption of the Government, the Petitioner was re-designated as Assistant Draughtsman. Pursuant to the policy decision taken by the

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Government, the petitioner's services were regularised in the cadre of Assistant Draughtsman on and from 18.10.1972, the date on which the petitioner had joined in the service. She would further submit that the Government by G.O.Ms.No.641, Public Works Department, dated 17.05.1974, had reduced the qualifying service of Assistant Draughtsman (Tracers) to be promoted as Draughtsman Grade III (now redesignated as Junior Draughting Officer) from 10 years to 5 years. Subsequently, the petitioner was promoted as Draughtsman Grade III on 03.05.1980. She would submit that similarly placed persons like that of the petitioner were subsequently promoted as Junior Draughting Officer from 1977 by considering the fact that the services have been regularised in the cadre of Assistant Draughtsman in the year 1972. Therefore, the petitioner had made a representation to the respondents claiming that the same parity should be given on par with the persons who had been joined in the year 1972.

5. She would submit that the said representation was not considered by the authorities, hence, the petitioner had approached the

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Tamil Nadu Administrative Tribunal by way of Original Application in O.A.No.6205 of 1996 and by order dated 31.10.1996, the Tribunal had issued directions to consider the case of the petitioner. However, by the order impugned, the claim of the petitioner was rejected on various grounds. She would submit that the said reasons are discriminatory as the Government Orders have been issued in respect of various individuals starting from the year 1991 going upto 1999. She would rely upon the orders passed by the Government in respect of one A.Muniasamy, S.Sakthivel, S.Subbiah, K.Sundaralingam and M.Ramanathan. Therefore, she would submit that the order impugned is perverse, arbitrary and is backed/smacked by discrimination.

6.Countering her arguments, Mr.R.Neethi Perumal, learned Government Advocate appearing for the respondents on instructions would submit that the case of the petitioner stands on a different footing than those persons that he had relied upon. He would submit that the reasons assigned by the respondents in the impugned order are all valid reasons. He would submit that the period of qualification had

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been reduced for promotion of Assistant Draughtsman to the post of Draughting Officer from 10 years to 5 years, it does not mean that automatically when a person completes 5 years of service, he should be promoted as Junior Draughting Officer. He would submit that in this case, the petitioner had been promoted in the year 1980, when a vacancy arose in the cadre of Junior Draughting Officer. He would further submit that the claim of the petitioner cannot be compared with other Assistant Draughtsmans, who were working in another unit, the petitioner had singled out into a system came in to be much after the appointment of the petitioner and his seniority would depend upon the placement of the integrated units. He would further submit that the petitioner had already been superannuated from service and in the present circumstances, the claim of the petitioner need not be entertained.

7.I have considered the rival submissions made on either side and perused the materials placed on record.

8.It is admitted that there is no dispute as regards to the

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appointment and re-designation of the petitioner. The claim of the petitioner is that he ought to have been promoted as Draughtsman Grade III (Junior Draughtsman) on completion of 5 years of service from the date of his initial appointment.

9.The petitioner had relied upon the orders of the Government made in G.O.2DNo.47, Public Works Department, dated 02.08.1991, G.O.2DNo.17, Public Works Department, dated 14.02.1997, G.O.2DNo.71, Public Works Department, dated 19.06.1992, and G.O.2DNo.3, Public Works Department, dated 12.01.1999, wherein similarly placed persons like that of the petitioner had been given a similar relief.

10.I have perused the aforesaid Government Orders. The similarly placed persons like that of the petitioner, who were given benefit under the aforesaid Government Orders, had also joined in the services as a Field Assistant cum Tracer in the Rural Engineering Survey Cell, Ramanathapuram by various orders of appointment made in October 1972. Considering the fact that the beneficiary of the

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aforesaid G.O., was retrospectively regularized as Assistant Draughtsman in the year 1972 was eligible to be promoted as Junior Draughtsman Officer on 09.10.1977 that is 5 years from the date of his joining and was directed to be placed above his juniors, who had joined the duty as Junior Draughting Officer on 07.12.1977, which has also been accepted by the Government and orders have been passed.

11. Similarly subsequent Government orders of the year 1997 and 1999 also have been issued for the benefit of the individuals, who were originally appointed as Field Assistant cum Tracer in the year 1972 and re-designated as Assistant Draughtsman in pursuant to the abolition of the Department, were given a similar benefit to that of the Government Order in respect of A.Muniasamy. The petitioner is also a similarly placed person, and he had also been appointed in the year 1972, as a Field Assistant cum Tracer and was re-designated as Assistant Draughtsman and his services have also been regularized from the year 1972 i.e., from the date of initial appointment as Assistant Draughtsman.

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12.In such view of the matter, I am inclined to hold that the order impugned in this Writ petition smacks from absolute discrimination.

13.In view of the aforesaid discussion, I am of the view that the impugned order would have to be set aside and the relief sought for by way of a direction ought to be granted.

14.In fine, the Writ Petition is allowed and the impugned order is set aside and the respondents are directed to give the same benefit of promotion as Junior Draughting Officer as on completion of five years as Assistant Draughtsman i.e., with effect from 18.10.1977, as the benefits were given to other persons, viz., A.Muniasamy, S.Sakthivel and S.Subbiah who belonged to the same Rural Engineering Survey Cell Division, Ramanathapuram Circle at Madurai, with revised seniority in the category of Junior Draughting Officer. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No

Speaking order : Yes/No

Neutral Citations : Yes/No



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K.KUMARESH BABU,J.

Pbn

To

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The Secretary to Government,
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- 2.The Engineer-in-Chief,
W.R.O.& Chief Engineer (General)
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