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W.A.No.4026 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.No.4026 of 2019
and
C.M.P.No.25231 of 2019

- 1.The State of Tamil Nadu,
Rep. By its Secretary,
Public Works Department,
Chennai – 600 009.
- 2.The Chief Engineer,
Water Resources Organisation,
Design Research & Construction Support,
Public Works Department,
Chepauk, Chennai – 5.
- 3.The Chief Engineer,
Water Resources Organisation,
Public Works Department,
Chepauk, Chennai – 5.
- 4.The Executive Engineer,
Soil Mechanics & Research Division,
Public Works Department,
Chepauk, Chennai – 5.

... Appellants

Vs.

1.N.V.Moorthy (deceased)



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2.Santhaveni
3.Prabakaran
4.Nagalakshmi
5.Panjarathinam

... Respondents

[R2 to R5 is substituted as the
legal heirs of the deceased R1
vide order dated 24.10.2019 in
MP.No.1 of 2015 in WA.SR.No.45745/2011]

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 28.10.2010 in W.P.No.41614 of 2006.

For Appellants : Mr.R.Kumaravel
Additional Government Pleader

For Respondents : No appearance

JUDGMENT

(Judgment of the Court was delivered by K.KUMARESH BABU, J.)

This intra-Court appeal has been preferred being aggrieved against the order made in W.P.No.41614 of 2006 dated 28.10.2010 by the learned Single Judge directing the 1st respondent/1st appellant to consider the case of the petitioner/deceased 1st respondent on the basis of the recommendations made by the Superintending Engineer and the Executive Engineer and also based on G.O.(Ms).No.30 dated 27.01.1998 and G.O.(Ms).No.392 dated 19.06.1998 and pass orders on the relaxation of the educational qualification.



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2. This writ petition had come up before this Court by way of a transfer of the original application filed before the Tamil Nadu Administrative Tribunal.

3. A perusal of the original application filed by the applicant/1st respondent would indicate that the applicant viz., deceased 1st respondent herein was aged 60 years even at the time of filing the application. The prayer in the application is to fit the applicant in the cadre of Fitter Grade II from 28.12.1998 by relaxing the *Adhoc* rules in that respect.

4. The application had been made beyond the age of the superannuation and hence at the outset, it ought not to have been entertained by the learned Single Judge, but however the learned Single Judge had proceeded to issue the direction by taking into account certain recommendations that had been made in favour of the deceased 1st respondent. Even the Government Orders that had been relied upon by the learned Judge had come to be issued only in the year 1998 which would impliedly mean that such Government Orders have been made after the superannuation of the 1st respondent. Therefore, the reliance



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placed upon the said Government Orders by the learned Judge is wholly misplaced and therefore the order impugned in this writ appeal is liable to be interfered with and accordingly the Writ Appeal is allowed and the order passed by the learned Single Judge is set aside. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (K.B., J.)

29.08.2023

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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And
K.KUMARESH BABU, J.

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