



W.A.No.1561 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.A.No.1561 of 2019
and C.M.P.No.10723 of 2019**

The Managing Director
Tamil Nadu Water Supply and Drainage Board
No.31, Kamarajar Salai, Chennai 600 005.

... Appellant

-Vs-

1.D.Bosco

2.The Secretary cum General Manager
Tamil Nadu Water Supply and Drainage Board
31, Kamarajar Salai, Chennai 600 005.

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in W.P.No.222930 of 2015 dated 29.07.2015.

For Appellant : Mrs.Y.Kavitha, Standing Counsel

For Respondents : No appearance

J U D G M E N T

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

This intra Court appeal has been preferred, challenging the order of the learned Single Judge, where the learned Single Judge has directed the appellant



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herein to include the name of the first respondent in the promotional panel dated 17.12.2013 for the post of Assistant Accounts Officer if he is otherwise eligible and be given notional promotion from the date on which his immediate junior was promoted.

2. The case of the appellant is that, the first respondent herein when was offered promotion as Administrative Officer, had relinquished his promotional avenues and therefore he would not be entitled to be considered for the post of Assistant Accounts Officer, which is also a further avenue of promotion that was available to the first respondent.

3. The appellant by a letter dated 08.05.2015 had intimated the first respondent herein that he was not eligible to be included in any panel for promotion in view of the relinquishment letter dated 16.08.2013. In the said letter, the appellant herein had referred to Rule 11(a) of the TWAD Board Service Regulations Act 1972 to deny the promotion to the first respondent on the strength of the relinquishment letter dated 16.08.2013. This was the subject matter of challenge before the writ Court and the writ Court, even at the admission stage having found that the relinquishment letter issued by the first respondent was only with regard to the post of Administrative Officer, had directed the case of the first respondent to be considered for promotion to the post of Assistant Accounts Officer by including his name in the panel.



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4. This has been challenged by the appellant before this Court contending that such relinquishment is a permanent relinquishment of any promotion to any class or category. A perusal of Rule 11(a) of the TWAD Board Service Regulations would clearly indicate that, when a candidate's name has been included in more than one class or category of service, then the appointing authority shall call upon such candidate to elect the class or category of service, to which he wishes to be appointed.

5. From the typed set of papers produced by the appellant, it is seen that the first respondent initially submitted a letter dated 13.08.2013 indicating that he was willing to work only in the Accounts Department and not on the administrative side. This was the letter given by him only after the Managing Director had included the name of the first respondent in the promotion panel for the post of Administrative Officer. Thereafter, on 16.08.2013 the first respondent has issued a further letter indicating his relinquishment to the promoted post of Administrative Officer only.

6. From a reading of the aforesaid letters, the first respondent had only relinquished his promotional avenue to the post of Administrative Officer, which is one category of service and he had not relinquished his right to be promoted to the post of Assistant Accounts Officer. Hence, the interpretation given by the appellant in his letter dated 08.05.2015 which was challenged before the writ court is wholly



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erroneous and therefore, there is no infirmity in the impugned judgment passed by the learned single Judge.

7. It is now brought to our notice that the first respondent has superannuated on 30.09.2017 and therefore, it would not be possible to consider his case now, as he would have to qualify the Accounts Test. We find that the present scenario had arisen in view of the wrong interpretation given by the appellant in not considering the name of the first respondent to the post of Assistant Accounts Officer. Even though the writ Court had passed the impugned judgment as early as on 29.07.2015, the same was not sought to be implemented and even though writ appeal has been originally preferred by the Department as early as in the year 2016 the same had been numbered only in the year 2019 for various defects that have been made in the filing of the writ appeal. Therefore, the appellant now cannot take recourse to the submission that the first respondent had superannuated as early as in the year 2017 and could not be promoted now.

8. In view of the above discussion, this writ appeal is disposed of with the following directions.

- There shall be a direction to the appellant to promote the first respondent to the post of Assistant Accounts Officer and fix his seniority as per law and pay him all attendant benefits notionally.



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- The appellant also shall re-calculate the pensionary benefits payable to the first respondent and pay such benefits from the month of November 2023.
- The aforesaid exercise shall be done within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above directions, the writ appeal is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

(R.S.K.,J..) (K.B.,J.)
15.09.2023

Index : Yes/No
Internet : Yes/No
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