



W.P.No.17080 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM :

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

W.P.No.17080 of 2008
and MP.No.1 of 2008

H. Shankara Subramanian

... Petitioner

Vs.

1. The Secretary to Government
Highways Department,
Fort St.George,
Chennai 600 009.

2. The Chief Engineer (General)
Highways Department,
Chepauk,
Chennai 600 005.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari Mandamus calling for the records pertaining to the impugned order of the respondent passed in and by its proceedings No.12308/N5(1) / 2008, dated 28.04.2008 and to quash the same and consequently direct the respondents to promote the petitioner as Junior Engineer considering his date of appointment 26.09.1980 and before promoting the juniors in serial no.586 of the Junior Draughting Officer



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seniority list dated 18.02.2002.

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For Petitioner : Mr.S.T.P.Kuilmozhi
For Respondents : M/s.C.Sangamithrai
Special Government Pleader

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorari Mandamus calling for the records pertaining to the impugned order of the respondent passed in and by its proceedings No.12308/N5(1) / 2008, dated 28.04.2008 and quash the same and consequently direct the respondents to promote the petitioner as Junior Engineer considering his date of appointment on 26.09.1980 and before promoting the juniors in serial no.586 of the Junior Draughting Officer seniority list dated 18.02.2002.

2. The petitioner submits that he was appointed initially as Assistant Draughtsman in the office of the 2nd respondent on 26.09.1980. His services were regularised from the date of appointment and updated his probation successfully. The next promotional category is the Junior Draughting Officer



and the further promotion is the post of Junior Engineer/Draughting Officer.

In the year 1985 he was promoted temporarily as Junior Draughting Officer under the flood relief scheme and reverted back as Assistant Draughtsman. The petitioner further submits that the seniority list was published by the 1st respondent by proceedings dated 11.05.1987. As per the Tamil Nadu Engineering Subordinate Rules, candidates with prescribed qualification for Assistant Draughtsman posts are eligible only after completion of five years of service in the feeder category. But the candidate who possess D.C.E./LCE added qualification can be given preference for promotion before completion of five years in the feeder category. The 2nd respondent by its proceedings in Letter No.29210/Nir-5/2006/dated 04.12.2007 refixed the seniority of one C.Raju, C.Subramanian and C.Krishnaswamy whose Serial No. are 357, 359 and 412 respectively in the feeder category list, as they all are far most juniors to the petitioner.

3. It is further submitted that the seniority of the petitioner is fixed in the feeder category in Serial No.194 and that has to be revised and placed before D.Arumugam (Sl.No.191), D.Ramasamy (Sl.No.192) and



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Kanakasabapathy (Sl.No.193). The service of D.Arumugam placed in Sl.No.191 was regularised on 01.10.1980 and the service of D.Ramasamy and Kanakasabapathy placed in Sl.No.191 and 193 in the Assistant Draughtsman seniority list were regularised on 01.10.1980 as on the date of regularisation of the petitioner.

4. Mr.S.T.P.Kuilmozhi, learned counsel appearing for the petitioner would submit that as per the Tamil Nadu General Rule 39 (a) (1) and as per the instructions given by the 1st respondent in its General memo No.33144/F3/81-1 dated 22.04.1981, the direct recruitment made for the post of Draughtsman their seniority should be placed only after the completion of probation and regularisation of the Assistant Draughtsman. Therefore the petitioner's seniority has to be placed in Sl.No.586 and his name should be placed before V.Prabhakar of Junior Draughting Officers seniority list dated 18.02.2002.

5. It is her further contention that the 1st respondent introduced the single entry system to the post of Junior Engineer in G.O.Ms.No.164, dated



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28.06.2007 made all the eligible category under the feeder category for the said post were made as single entry system. In spite of several representations, there was no action by the respondents. Hence the petitioner approached this Court by way of filing writ petition in W.P.No.5068 of 2008 direction was given to the respondents to consider his request in accordance with rules and law. But the respondents have passed the impugned order, rejecting his request of fixation of appropriate seniority. Hence, this writ petition.

6. Mrs. C.Sangamithrai, learned Special Government Pleader, forcefully argued that Assistant Draughtsman possessing the S.S.L.C Bifurcated Course is eligible for consideration to the next higher post [Junior Draughting officer] only after completion of 5 years of service in the post of Assistant Draughtsman. Whereas an Assistant Draughtsman possessing a Diploma, becomes eligible for consideration to the next higher post after he completes the period of probation. She would further contend that some of the Assistant Draughtsman who possessed Diploma qualification were promoted to the post of Junior Draughting Officer on completion of



probation. Whereas the petitioner who has only completed S.S.L.C.

Bifurcated Course happened to be promoted after putting in 5 years of service. Though the petitioner completed 5 years of service in the post of Assistant Draughtsman in the year 1985, he came to the zone of consideration for promotion to the post of Junior Draughting Officer by virtue of seniority only in the year 1995-1996. Therefore, his name was included in the promotion panel of Junior Draughting Officers for the year 1995-1996 and was promoted to the said post subsequently.

7. She would further submit that the Tribunal in their order dated 09.04.1990 in O.A.No.309/89 and also in their order dated 24.07.1990 in O.A.Nos.1062/89 and 1468/89 had observed that when the retrenched employees were re-appointed in the vacancies that arose subsequently in the Department, they were not again required to be sponsored through the Employment Exchange and hence they need not be considered as fresh appointees and such applicants are entitled to have their services regularised with effect from the date of their first appointment. The Tribunal has therefore directed the respondent to regularise his services with effect from



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the date of his first appointment and thereby determining their seniority in the state-wise seniority list and to allow all consequential benefits thereafter.

Hence the seniority fixed from the date of initial entry into the department is in conformity with the orders of the Tribunal.

8. From the impugned memo, it is inferable that based on the single unit system the Assistant Draughtsman list was procured from all the circles and a comprehensive Assistant Draughtsman seniority list was prepared. It has been mentioned that D.Arumugam, D.Ramasamy and Kanakasabapathy are possessing Diploma degree at the time of appointment itself. Whereas H.Shankara Subramanian the petitioner herein who was appointed as Assistant Draughtsman and his educational qualification is S.S.L.C Bifurcated.

9. From the above said details it is inferable that when a person who possess S.S.L.C Bifurcated course, then he has to continue Assistant Draughtsman post for five years and depending upon the vacancies, his name will be empaneled in the promotion list. Whereas, when a person who has



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completed Diploma and joined as Assistant Draughtsman on completion of probation, considering the vacancy position he can be promoted to the post of Junior Draughting Officer. It is relevant to note that D.Arumugam, D.Ramasamy and Kanakasabapathy have completed their Diploma Engineering Course, therefore after completion of probation they are entitled to be promoted whenever vacancies arise. In the case of the petitioner, as per the rules as he has completed S.S.L.C. Bifurcated course, he has to continue in the original post for five years and then only he will get into the zone of consideration for promotion to the next level of posting. Therefore, the impugned order reads that it is not necessary to revise the seniority list. Based on the rule position, I do not find any perversity in the impugned order.

10. Based on the aforesaid discussion, this writ petition stands dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is also closed.

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Speaking Order : Yes/No

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R. KALAIMATHI, J.

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To

1. The Secretary to Government
Government of Tamil Nadu
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Chennai 600 009.
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