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W.P.No.21799 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

W.P.No.21799 of 2009
and
M.P.No.1 of 2009

1.P.Muniswamy
2.N.Santha
3.P.Padmini
4.R.Theertham ... Petitioner

Vs.

1. The Secretary to Government,
Public Works Department,
Fort St.George, Chennai-9.

2. The Principal Chief Engineer (WRO) &
Chief Engineer (General),
Public Works Department,
Chepauk, Chennai-5. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the 2nd respondent's proceeding in Memo No.S4(2)60526/2008 dated 29.09.2009 and quash the same in so far as the petitioners are concerned and direct the respondents to restore the petitioners seniority granted to them in Proceedings No.S4(2)/56135/2006 dated 19.12.2007 and further direct the respondents to promote the petitioners as Senior Draughting Officer as per the Revised Seniority List issued by proceedings dated 19.12.2007



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by the 2nd respondent and grant them all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkatramani
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

Letter No.S4(2)60526/2008, dated 29.09.2009 issued by the Engineer-in-Chief, WRO & Chief Engineer(General),PWD., Chepauk, Chennai, is under challenge and a direction is sought for to restore the petitioners' seniority granted to them in Proceedings No.S4(2)/56135/2006 dated 19.12.2007. Yet another direction is also sought for to promote the petitioners as Senior Draughting Officer as per the Revised Seniority List issued by proceedings dated 19.12.2007 of the 2nd respondent and grant them all consequential service and monetary benefits.

2. The petitioners 1.P.Muniswamy, 2.N.Santha, 3.P.Padmini, 4.R.Theertham would submit that they were appointed as Assistant Draughting Officer through Employment Exchange under Rule 10(a)(i) of the Tamil Nadu State Subordinate Service Rules on 25.10.1979 and



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29.10.1979 respectively. They possess Diploma in Civil Engineer. They were promoted as Draughtsman Grade III during August and September 1980 by the Chief Engineer(General). Thereafter, Draughtsman Grade III was re-designated as Junior Draughting Officer.

3. They would further submit that the petitioners' services were regularised during 1983 and they were promoted temporarily as Draughtsman, Grade-II on 08.06.1983. But, they were reverted as Junior Draughting Officers / Draughtsman Grade-III on 31.10.1983.

4. Thereafter, the petitioners were promoted as Draughting Officer (Draughtsman Grade-II) after a period of 20 years by the proceedings of the Chief Engineer (General), PWD, Chepauk in his proceedings No.S4(5)/28221/05 dated 22.09.2005.

5. It is the further case of the petitioners that the Government issued guidelines in G.O.Ms.No.2508, Public Works Department, dated 21.12.1982, bringing all the categories of all the Draughtsmen in a Single and Common Unit. When a Common Seniority list was prepared, it was agitated before this Court in W.P.No.6355 of 1988 and thereafter



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transferred to the Tamil Nadu Administrative Tribunal in T.A.No.300 of 1990, wherein, the Tamil Nadu Administrative Tribunal(TAT) issued an order on 19.06.1991, held that "all the promotions made till the date of the actual issue of the Amendment should be regularised, increment and pay protection should be granted to them". In view of the order of the Tribunal, the reversion so ordered to the petitioners as early as on 31.10.1983, from the post of Draughting Officer to the post of Junior Draughting Officer is totally invalid.

6. The 2nd respondent issued the impugned order dated 29.09.2009, wherein, the reversion of seniority ordered to the petitioners in the proceedings No.S4(2)56135/2006 dated 19.12.2007 have been "cancelled" and old seniority was restored. Hence, this writ petition.

7. Heard Mr.K.Venkatramani, learned Senior Counsel appearing on behalf of Mr.Muthappan for the petitioners and Mr.S.Rajesh, learned Government Advocate appearing for the respondents.

8. The learned Senior Counsel Mr.K.Venkatramani, appearing for Mr.M.Muthappan for the petitioners would vehemently contend that the



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impugned order is in violation of principles of natural justice. The seniority already granted to a Government servant cannot be revised without issuing a Show Cause Notice. He would further contend that the impugned order does not contain any valid reason for revising their earlier order dated 19.12.2007. The objections from the other similar persons cannot be a reason to revise the earlier reversion of seniority.

9. Per contra, Mr.S.Rajesh, learned Government Advocate appearing for the respondents would strenuously contend that the revised seniority list ordered to the petitioners were subsequently withheld due to the objections raised from the other Junior Draughting Officers. Show Cause Notice was issued to the petitioners informing them of the proposed cancellation of revised seniority and reservation of original seniority in Engineer-in-Chief's Letter No.S4(2)/60526/2008, dated 29.09.2009. He would also contend that a fresh seniority list was prepared as per the direction of Tamil Nadu Administrative Tribunal in T.A.No.300/1990 and the order passed by the Tribunal was upheld by the Hon'ble Supreme Court in S.L.P.No.7218-7250/1992. Thereafter, a fresh seniority list was prepared as per orders of the Tamil Nadu Administrative Tribunal in T.A.No.300 of 1990, dated 19.06.1991.



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Therefore, the promotions made by the Superintending Engineers after 01.09.1978 were protected in respect of pay only.

10. The seniority of the petitioners in O.A.No.1883 of 2003 were upheld by the Tamil Nadu Administrative Tribunal from their date of joining. The petitioners are not similarly placed as they were promoted from the post of Assistant Draughtsman to Draughtsman Grade-III(J.D.O.) in 1980.

11. By a proceedings dated 19.12.2007, the Engineer-in-Chief (General), PWD, in Proceedings No.S4(2)56135/2006 based on the Draughting Officials representation to him for refixation of their seniority of the following persons:

- 1)Smt.N.Santha
- 2)Smt.P.Padmini
- 3)Thiru.P.Munusamy
- 4)Tmt.R.Theertham
- 5)Thiru.P.Mayilsamy
- 6) Thiru.K.Kandasamy
- 7) Thiru.J.Thirugnanasambandam



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8) Thiru.S.Subramani

9) Thiru.N.Shelladurai.

12. It was observed that during the year 1981, consequent on the promotion of Draughtsman Grade-III to higher posts, the vacancies caused in the Draughtsman Grade-III posts were ordered to be filled by issuance of guidelines to all Superintending Engineers / Chief Engineer in Memo No.AD.1.2/176978/B1.1 dated 23.04.1981. According to the guidelines, the N.M.R. Technical Assistants with Diploma(DCE) qualifications who are recruited through Employment Exchange to be appointed first after giving their chances of promotions to the post of Junior Engineers.

ii) The Assistant Draughtsman with Diploma qualification and recruited through Employment Exchange may be appointed as fresh entrants as Draughtsman Grade-III.

iii) Lastly, recruitment of fresh candidates through Employment Exchange in the absence of above said two persons. Based on the representations of the above said individuals, after getting instructions from the Government as per the reference No.11 in the proceedings dated 19.12.2007 as mentioned supra, the Engineer-in-Chief being the



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Competent Authority, upon consideration, refixed the seniority of the following individuals as given hereunder:

Sl.No.	Name	Date of Joining as JDO	Revision of Seniority
1	Tmt.Santha N.	080780	189(a)
2	Tmt.Padmini P.	081080	189(b)
3	Thiru.Munusamy P.	082080	189(c)
4	Tmt.Theertham R.	091980	189(d)
5	Thiru.Mayilsamy P.	071381	204(a)
6	Thiru.Kandasamy K.	071581	204(b)
7	Thiru.Thirugnanasambandam J.	081381	204(c)
8	Thiru.Subramani S.	081781	204(d)
9	Thiru Selladurai N.	082181	204(e)

13. This proceedings dated 09.12.2007 of the Engineer-in-Chief was subsequently withheld by the impugned proceedings Letter No.S4(2)/60526/2008, dated 29.09.2009 and the revised seniority details is as follows:

Sl.No.	Name(Thiruvalargal)	Seniority no.to be cancelled	Seniority no.to be restored
1	N.P.Punniyamurthy	318(a)/D.O.	146/J.D.O.
2	N.Santha	189(a)/D.O.	480/D.O.
3	P.Padmini	189(b)/D.O.	486/D.O.
4	P.Munusamy	189(c)/D.O.	484/D.O.



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5	R.Theertham	189(d)/D.O.	483/D.O.
6	J.Thirugnanasambandam	204(c)/D.O.	490/D.O.
7	S.Subramani	204(d)/D.O.	512/D.O.

14. It has been mentioned in the said impugned letter that as a number of objections were received against the representation, the reversion ordered was withheld in the office memo No.S4(2)60526/2008 dated 22.04.2009. The Engineer-in-Chief had sought for clarification to the Government in their Letter No.4724/C1/2009-2 dated 16.06.2009 and he was directed to finalise the revision as per G.O.Ms.No.2508/PWD/dated 21.12.1982. Through the said G.O.Ms.No.2508/PWD/dated 21.12.1982, guidelines for the Draughtsman categories in case of recruitment and promotion by bringing into single and common unit were issued.

15. The suggestions given by the Chief Engineer, PWD(General) in case of implementation of one unit system of Draughtsman was accepted by the Government.

16. In the proceedings dated 19.12.2007, when the revision of



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seniority was done in respect of Draughting Officers, this G.O.Ms.No.2508/PWD/21.12.1982 was not referred to.

17. Whereas, in the impugned order in reference details though G.O.Ms.No.2508 dated 21.12.1982 is not mentioned, mention is made in the operative portion of the impugned proceedings. When a revision of seniority was done in advantage to the petitioners, when it was sought to be revised, the principles of natural justice demands that the affected persons should have been heard in this regard. Though it has been stated in the counter that notices were issued to the petitioners, a careful perusal of the impugned letter would explicate that no such notice was issued to the affected persons.

18. All the petitioners have been superannuated.

19. Therefore, the letter/proceedings has been issued in violation of principles of natural justice and hence stands quashed. Based on the aforestated discussions,

i) This Writ Petition stands disposed of with a direction to the respondents to issue notice inviting the petitioners calling for their



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objections if any and thereafter to pass orders.

ii) The petitioners shall give application within a period of four weeks from the date of receipt of a copy of this order.

iii) The respondents shall complete the said exercise within a period of eight(8) weeks from the date of receipt of applications from the petitioners. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Neutral Citation Case : Yes / No
Speaking Order / Non-Speaking Order
ssn

To

1. The Secretary to Government,
Public Works Department,
Fort St.George, Chennai-9.
2. The Principal Chief Engineer (WRO) &
Chief Engineer (General),
Public Works Department,
Chepauk, Chennai-5.



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